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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JANUARY 7, 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Meetings of December 3rd, 10th and 17, 2003 (ACTION ITEM)
4. Approval of Consent Calendar (ACTION ITEM)
5. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Inspector Kevin M. Whitfield, Burglary (File No. C03-347 JWA) (ACTION ITEM)
6. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Sergeant Eugene N. Yoshii, Property (File No. C03-190 JWA) (ACTION ITEM)
7. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Michael A. Toropovsky, Medical Liaison (File No. C03-362 EGF) (ACTION ITEM)
8. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Reynaldo C. Vargas, Central (File No. C03-302 EGF) (ACTION ITEM)
9. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
10. Election of Police Commission Officers (ACTION ITEM)
11. Chief's Announcements and Review of Recent Department Events
12. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
13. Discussion and Action re: Revised Department General Order 11.12, "Temporary Modified Duty/Reasonable Accommodation" (ACTION ITEM)

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JANUARY 7, 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

14. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

15. Discussion and Possible Action to Adopt Decision Denying Motion for Dismissal of Disciplinary Charges filed against Sergeant Gregory Breslin, Sergeant Michael Moran, Inspector Peter Siragusa, and Inspector James Zerga (File Nos. C02-256 SCM, C02-257 SCM, C02-258 SCM, and C02-259 SCM) (ACTION ITEM)

CONSENT CALENDAR

1. Request of Inspectors Angela Martin, Nelly Gordon, and Kim Lewis for Approval to Accept a Gift Certificate to Boulevard Restaurant, valued at $250.00, and a Book, valued at $26.95, from a Citizen who would like to remain Anonymous

2. Request of the Chief of Police for Approval to Accept a Donation of thirty-six (36) OSHA Approved Traffic Safety Vests, valued at $792.00, from the Annuzzi Concrete and Pavement Company

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

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(Chapter 67 of the San Francisco Administrative Code)

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Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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A sound enhancement system will be available on request at the proceeding.

Meeting agendas and other print materials will be made available in alternate formats (computer disk. cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products.

The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

≡Minutes

JANUARY 7, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Strect, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Makras, Chan, Friday, Quaranta

APPROVAL OF MINUTES FOR THE MEETINGS OF DECEMBER 3rd, 10th, and 17, 2003

Commissioner Quaranta made a motion to approve the Commission minutes from the meetings of December 3rd, 10th, and 17, 2003. Second by Commissioner Chan. Minutes approved 4-0.

AYES: Commissioners Perry, Chan, Friday, Quaranta
ABSENT: Commissioner Makras

(Commissioner Makras arrived at 5:40 p.m.)

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APPROVAL OF CONSENT CALENDAR

RESOLUTION NO. 1-04

APPROVAL OF THE REQUEST OF INSPECTORS ANGELA MARTIN, NELLY GORDON, AND KIM LEWIS TO ACCEPT A GIFT CERTIFICATE TO BOULEVARD RESTAURANT, VALUED AT $250.00, AND A BOOK, VALUED AT $26.95, FROM A CITIZEN WHO WOULD LIKE TO REMAIN ANONYMOUS

RESOLVED, that the Police Commission hereby approves the request of Inspectors Angela Martin, Nelly Gordon, and Kim Lewis to accept a gift certificate to Boulevard Restaurant, valued at $250.00, and a book, valued at $26.95, from a citizen who would like to remain anonymous.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

Lieutenant Edward Geeter, Police Commission Secretary, displayed one of the safety vests being donated tot he Department from Annuzzi Concrete Company.

RESOLUTION NO. 2-04

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO ACCEPT A DONATION OF THIRTY-SIX (36) OSHA APPROVED TRAFFIC SAFETY VESTS, VALUED AT $792.00, FROM THE ANNUZZI CONCRETE AND PAVEMENT COMPANY

RESOLVED, that the Police Commission approves the request of the Chief of Police to accept a donation of thirty-six (36) OSHA-Approved Traffic Safety Vests, valued at $792.00, from the Annuzzi Concrete and Pavement Company.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

RESOLUTION NO. 3-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST INSPECTOR KEVIN M. WHITFIELD, BURGLARY (FILE NO. C03-347 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Inspector Kevin M. Whitfield, Star No. 493, Burglary, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Inspector Kevin M. Whitfield; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Inspector Kevin M. Whitfield, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

RESOLUTION NO. 4-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST SERGEANT EUGENE N. YOSHII, PROPERTY (FILE NO. C03-190 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Sergeant Eugene N. Yoshii, Star No. 1728, Property, was called it having been set for this date; and

WHEREAS, Commissioner Angelo Quaranta is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Sergeant Eugene N. Yoshii; therefore be it

RESOLVED, that Commissioner Angelo Quaranta is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Sergeant Eugene N. Yoshii, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

RESOLUTION NO. 5-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER MICHAEL TOROPOVSKY, MEDICAL LIAISON, (FILE NO. C03-362 EGF)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Michael Toropovsky, Star No. 2036, Medical Liaison, was called it having been set for this date; and

WHEREAS, Commissioner Wayne Friday is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Michael Toropovsky; therefore be it

RESOLVED, that Commissioner Wayne Friday is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Michael Toropovsky, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

RESOLUTION NO. 6-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER REYNALDO C. VARGAS, CENTRAL (FILE NO. C03-302 EGF)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Reynaldo Vargas, Star No. 979, Central, was called it having been set for this date; and

WHEREAS, Commissioner Sidney Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Reynaldo Vargas; therefore be it

RESOLVED, that Commissioner Sidney Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Reynaldo Vargas, and is to be set at a later date.

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Friday stated that this will be the last Police Commission meeting serving under Mayor Willie Brown. He stated that, being one of the longest serving Commissioners, serving under Mayor Jordan and two terms under Mayor Brown, it has been a personal pleasure.

Commissioner Perry stated that this meeting should be dedicated to honor Mayor Willie Brown. She stated that she appreciates being appointed to the Commission seven years ago and that it has been a rewarding and a growing experience. She stated she looks forward to serving under Mayor Newsom as long as he allows.

Commissioner Quaranta stated that he has served under three mayors, Mayor Brown being the third, and he feels bad that he is leaving office but when it's time, it's time.

Commissioner Chan stated that, as far as tenure goes, he thinks that he might have a few days over Commissioner Perry's seven years. He stated that it has been fun serving under Mayor Willie Brown and that it has been a pleasure working with the Police Command Staff, first under Fred Lau, Earl Sanders, and now Alex Fagan. Commissioner Chan stated that he does not know how much longer he will be on this Commission under the new mayor, but he stated that he has enjoyed it and hopes his contributions have been good enough to help the Department over the seven years.

Commissioner Makras stated that he would like to make his comments directly to the Mayor and stated that he believes he has been a great mayor. He has served San Francisco very well and wishes him the best on his new challenges in front of him.

ELECTION OF POLICE COMMISSION OFFICERS

Put over for next week.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Deputy Chief Pengel, sitting in for Chief Fagan, informed the Commission that Chief Fagan and Assistant Chief Fong was in a meeting with Mayor-elect Newsom and will be late for the meeting.

Chief Pengel introduced Lieutenant John Bisordi, Tactical. Lieutenant Bisordi introduced the members of Department's Dog Unit (the officers and their dogs) to the Commission. He gave an update on the efforts of the Unit.

(Chief Fagan and Assistant Chief Fong arrived at 5:50 p.m.)

Lt. Bisordi introduced Mrs. Catherine Accardi who donated $4,000.00 to the Police Department's K-9 Unit. Mrs. Accardi addressed the Commission stating that it was a pleasure to make the donation for the welfare of the animals which she cares for very much and for the safety of the Police Officers. She wanted to personally thank the Chief and Lt. Bisordi for helping in making the donation a pleasure.

Chief Fagan presented Mrs. Accardi a Certificate of Appreciation from the Police Department.

Chief Fagan addressed the Commission and apologized for arriving late and stated that he and Assistant Chief Fong were attending a meeting with Mayor-elect Newsom.

Chief Fagan updated the Commission on a few issues. General order 11.07 is completed, however, the Department is still waiting for the public advocates' input and there are still things to be finalized.

Chief Fagan stated the Assistant Chief Fong met with OCC Director Kevin Allen to discuss reporting issues. Questions put forward by OCC are being worked out and the City Attorney is looking at those issues.

Chief Fagan then stated that the General Order asked for by Commissioner Makras is still being worked on and a draft should be ready for review in about two weeks.

Chief Fagan reported that Mayor-elect Newsom will be sworn in tomorrow, January 8th, at noon, and the Department is working on the security for that event.

Lastly, the Chief thanked the Command Staff and everyone in the Department for the great job everyone is doing.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, stated that he met with the Chief and Deputy Chief Pengel regarding working out protocol with the Airport and the counties the Airport Police work with.

DISCUSSION AND ACTION RE: REVISED DEPARTMENT GENERAL ORDER 11.12, "TEMPORARY MODIFIED DUTY/REASONABLE ACCOMMODATION"

Deputy Chief Robinson addressed the Commission regarding revised General Order 11.12. Chief Robinson introduced Captain Parra who explained the revisions. Chief Parra stated that the revised General Order meets ADA standards and has been reviewed by the City Attorney.

PUBLIC COMMENTS:

Mr. Frank Del Campo addressed the Commission and stated that the Union might have some concerns and asked the Commission to assist the Union in settling disputes regarding this issue.

Commissioner Makras made a motion to approve the revised General Order 11.12. Second by Commissioner Friday. Approved 5-0.

RESOLUTION NO. 7-04

APPROVAL OF REVISED GENERAL ORDER 11.12, "TEMPORARY MODIFIED DUTY/REASONABLE ACCOMMODATION"

RESOLVED, that the Police Commission hereby adopts revised General Order 11.12, "Temporary Modified Duty/Reasonable Accommodation."

AYES: Commissioners Perry, Makras, Chan, Friday, Quaranta

PUBLIC COMMENTS

Mr. Eddie Iglesias spoke on the issue of police abuse and stated that OCC refuses to accept his case that the police has put video cameras in his eyes and ears.

Ms. Malaika Parker, Bay Area Police Watch, spoke on the issue of the Detoy case, Item #15 on the calendar.

Unidentified spoke on the issue of police brutality and stated that because she had to leave the country for approximately six months, the OCC would not continue to investigate her complaint.

DISCUSSION AND POSSIBLE ACTION TO ADOPT DECISION DENYING MOTION FOR DISMISSAL OF DISCIPLINARY CHARGES FILED AGAINST SERGEANT GREGORY BRESLIN, SERGEANT MICHAEL MORAN, INSPECTOR PETER SIRAGUSA, AND INSPECTOR JAMES ZERGA (FILE NOS. C02-256 SCM, C02-257 SCM, C02-258 SCM, AND C02-259 SCM)

The Commission went in Closed Session. Upon their return submitted its Statement of Decision denying the motion to dismiss pursuant to California Government Code 3304.

RESOLUTION NO. 8-04

ADOPTION OF DECISION DENYING MOTION FOR DISMISSAL OF DISCIPLINARY CHARGES FILED AGAINST SERGEANT GREGORY BRESLIN, SERGEANT MICHAEL MORAN, INSPECTOR PETER SIRAGUSA, AND INSPECTOR JAMES ZERGA (FILE NOS. C02-256 SCM, C02-257 SCM, C02-258 SCM, AND C02-259 SCM)

RESOLVED, that the Commission hereby adopts the decision denying Motion for Dismissal of disciplinary charges filed against Sergeant Gregory Breslin, Sergeant Michael Moran, Inspector Peter Siragusa, and Inspector James Zerga, (File Nos. C02-256 SCM, C02-257 SCM, C02-258 SCM, and C02-259 SCM), which states:

"Police Commission of the City and County of San Francisco

In the matters of Sergeant Michael Moran, Sergeant Gregory Breslin, Inspector James Zerga, and Inspector Peter Siragusa, Case Nos. C02-256, C02-257, C02-258 and C02-259

Statement of Decision Denying the Motion to Dismiss
Pursuant to California Government Code § 3304(d)

Sergeants Breslin and Moran and Inspectors Zerga and Siragusa (the "charged officers"), through their counsel of record, seek an order dismissing all charges in case nos. C02-256, C02-257, C02-258 and C02-259 on the ground that the Police Department (the "Department") failed to file such charges with the Police Commission (the "Commission"), and serve them, within the time limits prescribed by California Government Code section 3304(d). Arguments on the motion were presented to the full Commission at its regular meeting on December 10, 2003. Having considered the oral arguments made by all counsel, and having considered the briefs filed by the parties, and in reliance upon those briefs and oral arguments,[1] this Commission hereby denies the charged officers' motion to dismiss.

I.
STATEMENT OF FACTS[2]

On May 13, 1998, the charged officers attempted to apprehend a fugitive, Raymondo Cox, at an apartment complex in San Francisco. As a car driven by Cox's associate reached the end of the complex's driveway, Sergeants Breslin and Moran, who stood near their unmarked van that partially blocked the driveway, fired into the car. One of Sergeant Breslin's bullets struck and killed a passenger in the car -- 17 year-old Sheila Detoy. The question whether Sergeant Breslin reasonably fired his weapon in self-defense as the car approached him was at issue in the criminal investigation, civil suit, and administrative investigation that followed Ms. Detoy's death.

The Department's Homicide Section, in accordance with Department General Order ("DGO") 8.11,[3] commenced a criminal investigation into the circumstances of the shooting. On February 10, 1999 the District Attorney notified the Department that he had found no criminal conduct on the part of the four charged officers. (Field Decl., Exh. C.) Three months later, on May 13, 1999, Sheila Detoy's mother, Diane Detoy, filed a wrongful death action naming the City and County of San Francisco ("City"), Sergeant Breslin, and Does 1 through 50 as defendants. (*Id.*, Exh. D.) The City settled the lawsuit on December 5, 2000. (*Ibid.*)

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[1] At the December 10, 2003 Commission meeting, attorneys for the charged officers objected to the Commission receiving public comment on this matter. The Commission, however, is required under local and state law to allow for public comment on all items on its agenda. Prior to the December 10 meeting, the Commission President assured all parties that they could, if they chose to do so, respond to any oral or written public comment submitted to the Commission. In addition, the Commission President told the parties that Commission could not consider statements made in public comment as evidence in this matter. Moreover, this Commission did not, in fact, base its decision in this matter on comments made by members of the public, but on the legal arguments submitted orally and in writing by the parties.

[2] The Commission's decision to deny the Motion to Dismiss is based on its factual findings as set forth in Parts I and II of this Decision.

[3] DGO 8.11 also requires the Department's Management Control Division ("MCD") to conduct an investigation of an officer-involved shooting resulting in injury or death.

In the course of its investigation of this serious and forensically complicated case, the Office of Citizen Complaints (the "OCC") interviewed the four charged officers, eight other officers, and eight civilian witnesses. (Field Decl., ¶ 6.) The OCC attended the preliminary hearing in the criminal case against Mr. Cox and his associate, and reviewed the transcript of that proceeding. (*Ibid.*) The OCC also reviewed the materials gathered by the Police Department and the District Attorney during their investigation of the charged officers. The materials OCC examined and analyzed included 78 tapes and transcripts of interviews, more than 7,000 pages of evidentiary material, and videotapes, photographs, physical evidence, and forensic reports. (*Ibid.*)

The OCC completed its investigation and notified the charged officers of its preliminary findings on March 30, 2001. (Field Decl., Exh. F.) The OCC's letter to each of the charged officers included notice that the charged officers were entitled to request an OCC investigative hearing. The OCC denied the requests for hearing filed by three of the charged officers, and the OCC delivered its final report to the Department on April 16, 2001. (Field Decl., ¶ 11.)

The OCC's report recommended that the Chief of Police (the "Chief") file the following charges with the Commission: 1) unnecessary use of force charges against Sergeants Breslin and Moran for discharging their weapons without justification; 2) charges of conduct reflecting discredit on the Department against Sergeants Breslin and Moran and Inspectors Zerga and Siragusa for misrepresenting the circumstances of the shooting during interviews with the Department's Homicide Section and the OCC, and during testimony at the preliminary hearing on the criminal charges filed against Mr. Cox and his associate; and 3) a charge of neglect of duty against Inspector Zerga for filing an inaccurate incident report regarding the shooting. (Mahoney Decl., Exhs. B and M.)

During the next four months, representatives of the OCC and the Department had numerous conversations regarding the Chief's review of the OCC's report. (Field Decl., ¶ 12.) On August 30, 2001, former Chief Lau sent a detailed, five-page letter to the Director of the OCC explaining his disagreement with the OCC's conclusions. (Mahoney Decl., Exh. N.) The OCC and the Department then engaged in informal discussions and negotiations for six months, but were unable to reach agreement. (Field Decl., ¶13.) On March 5, 2002, the OCC Director submitted verified complaints against the charged officers to Chief Lau in accordance with the Commission Resolution 25-01. (Field Decl., ¶ 14; Mahoney Decl., Exh. O.)

Again, the Department and the OCC attempted to resolve their differences. (Field Decl., ¶15.) On May 6, 2002, pursuant to its understanding that Chief Lau would file a verified complaint against Sergeant Breslin for unnecessary force, the OCC withdrew its verified complaints against Sergeant Moran and Inspectors Zerga and Siragusa. The OCC presented Chief Lau with a new verified complaint against

Sergeant Breslin, which contained a single charge - unnecessary force. (Field Decl., ¶ 16; Mahoney Decl., Exh. P.)

Chief Lau did not, however, file the new verified complaint, and the OCC asked the Commission to hear the matter. (Field Decl., ¶ 17.) At its meeting of June 26, 2002, the Commission recommended that Chief Lau file the verified complaints as originally drafted. (*Id.*, at ¶ 18.) The Department served the charges on Inspector Zerga on June 28, 2002, on Sergeant Breslin on July 1, 2002, on Sgt. Moran on July 2, 2002, and on Inspector Siragusa on July 9, 2002. (Mahoney Decl., Exh. C.)

II.

SAN FRANCISCO'S SYTEM FOR INVESTIGATING AND IMPOSING DISCIPLINE IN RESPONSE TO CITIZEN COMPLAINTS

California Penal Code section 832.5 requires entities that employ peace officers to adopt a procedure for investigating citizen complaints against those officers. But section 832.5 does not prescribe a particular procedure. It allows local entities to exercise discretion in determining how best to implement the statutory requirement that they establish procedures to investigate citizen complaints. The voters of San Francisco amended the City's Charter in 1982 to create the OCC and adopt a dual-agency response to citizen complaints of police misconduct.[4]

The OCC is a civilian agency that, under its own director, investigates citizen complaints of police misconduct and recommends discipline to the Chief of Police. (Charter § 4.127.) The OCC is independent of the Police Department, which is under the direction of the Chief. While the Chief may investigate citizen complaints of police misconduct, the OCC must investigate such complaints. (*Ibid.*) The Police Commission oversees and manages these two, separate, City departments. (Ibid. and Charter § 4.109.)

If, upon conclusion of an investigation, the OCC Director decides to sustain a complaint, the Director forwards the investigative report to the Chief with a recommendation for either a Chief's hearing, which can result in suspension of up to 10 days, or a hearing on charges before the Police Commission, which can result in suspension of up to three months, or termination. (Charter § A8.343.) Whether the OCC recommends a Chief's hearing or a hearing before the Police Commission, the recommendation is not binding on the Chief, who may accept it or reject it. Prior to the recent amendment of Charter sections 4.127 and A8.343, the Chief had the exclusive authority to initiate disciplinary proceedings against a uniformed member of the Police Department.

Shortly before the OCC sent its recommendation

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[4] The San Francisco voters recently adopted Proposition H, effective December 5, 2003, which modifies the City's system of police discipline, most importantly by giving the OCC Director the authority, under certain circumstances, to file misconduct charges with the Commission. Because the Department served the charges at issue here before the Charter was amended, this Decision's discussion of the authority of the Chief and the OCC Director will reflect the system as it existed before the effective date of Proposition H.

in this case to the Chief for review, the Commission revised its procedure for breaking an impasse when the Chief and the OCC disagree whether the Chief should file disciplinary charges against an officer. The revised procedure (adopted as Resolution 25-01) provides that after the Chief informs the OCC Director of his or her disagreement with the OCC's recommendation, the OCC may prepare a verified complaint against the officer and forward it to the Chief for review. If the parties cannot reach a negotiated solution within 15 days, the OCC must notify the Commission of the dispute. Within 30 working days of receiving the verified complaint, the Chief must decide whether to file the verified complaint with the Commission. If the Chief decides not to file the complaint, the Chief must notify the Commission and the OCC of the reasons for that decision within 35 working days of receipt of the verified complaint. The Commission then has 20 working days to hear the matter and decide whether to recommend that the Chief file the verified complaint with the Commission.

III.

THE STATE STATUTE OF LIMITATIONS FOR INVESTIGATIONS OF POLICE MISCONDUCT

California Government Code section 3304(d) bars a public agency from disciplining a public safety officer if the agency has not completed its investigation and notified the officer of its proposed disciplinary action within one year of receiving the complaint of misconduct. Section 3304(d) is subject to numerous exceptions. The following exceptions set forth in section 3304(d) are relevant here:

> (1) If the act, omission, or other allegation of misconduct is also the subject of a criminal investigation or criminal prosecution, the time during which the criminal investigation or criminal prosecution is pending shall toll the one-year period. . . .
> (3) If the investigation is a multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies.
> (4)If the investigation involves more than one employee and requires a reasonable extension. . . . .
> (6) If the investigation involves a matter in civil litigation, where the public safety officer is named as a party defendant, the one-year time period shall be tolled while that civil action is pending.

IV.

ANALYSIS

The parties do not dispute the facts relevant to application of the statute of limitations in this case. They disagree as to whether, or to what extent, the statutory exceptions are triggered by those facts.

A. Tolling

The Chief, represented by the OCC, contends that the one-year statute of limitations was tolled under section 3304(d)(1) and 3304(d)(6). According to the OCC, from the date of the incident, through February 10, 1999, when the District Attorney notified the Department of the conclusion of the criminal investigation, the statute was tolled because the Sheila Detoy homicide was "also the subject of a criminal investigation" within the meaning of section 3304(d)(1). The charged officers do not dispute this assertion.

The Chief also contends that after the section 3304(d) statute began to run on February 10, 1999, it was tolled again, three months later on May 13, 1999, when Diane Detoy filed her civil action against the City. This tolling period ended when the lawsuit was settled and the case dismissed on December 5, 2000. The charged officers argue that the statute was tolled during this period only as to Sergeant Breslin, because the other officers were not named in the *Detoy* action. We disagree.

While the *Detoy* complaint did not name the other charged officers, it included DOES 1 through 50 as defendants. The inclusion of the DOE defendants reserved to plaintiff Detoy the ability to amend her complaint at a later date to name one or more of the other charged officers. Instead, plaintiff Detoy settled her lawsuit.

In addition, where, as here, the investigation involves multiple officers, some of whom are not named as defendants in the civil action, we read Government Code section 3304(d)(6) to toll the statute of limitations as to all involved officers. Whether the tolling operates to the benefit of the officer, the employing agency, or the public, that benefit is undermined if the public entity is nonetheless required to proceed with the investigation because one or more of the involved officers is not named in the civil action. In this situation, as in many, the investigation of the officer named in the civil action cannot be severed from the investigation of the other officers involved in the incident.

2. Reasonable Extension

Based upon the conclusions we reached above regarding application of section 3304(d)'s tolling provisions, we find that the statute of limitations in this case was tolled from the day the citizen complaint was filed until February 10, 1999 due to the pendency of the criminal investigation of the charged officers. The statute ran for three months between the conclusion of the criminal investigation and the filing of the civil lawsuit on May 13, 1999. The statute was tolled again from May 13, 1999 until December 5, 2000 when the lawsuit was dismissed. Therefore, absent the applicability of any further exception to section 3304(d), the statute of limitations would have begun to run again on December 5, 2000 and would have expired on or about September 3, 2001, approximately ten months before the Department served the officers with these charges.

The Chief argues that both the "multiple officer" exception (Gov. Code § 33094(d)(4)) and the "multijurisdictional" exception (Gov. Code § 3304(d)(3)) apply here to provide the City with a reasonable extension of time

for the filing of disciplinary charges. The Chief asserts that ten months is reasonable. We agree, whether we consider these exceptions to section 3304(d) in conjunction or in isolation.

1.Multiple Officer Exception

Section 3304(d)(4) exempts a public agency from compliance with the one-year statute of limitations if the investigation "involves more than one employee and requires a reasonable extension." The charged officers argue that although this case involves an investigation against multiple officers, the participation of more than one officer in the alleged misconduct does not justify the delay in this case. We disagree. An extension of ten months is reasonable here in light of the number of officers involved, the myriad investigations conducted, the seriousness of the charges, and the complexity of the case. The necessity, as described in section IV(B)(ii) below, for coordination between the OCC and the Chief regarding the appropriateness of disciplinary action makes the delay even more reasonable.

The investigation of multiple officers requires additional time to schedule interviews of the officers (see Field Decl., ¶ 5), compare their testimonies, summarize the findings, determine which charges should be sustained, determine the proper forum for the charges, and draft the charges. In addition to increasing the length of the OCC investigation, which in this case lasted more than 33 months, allegations involving multiple officers can increase the complexity of the negotiation process when the OCC and the Chief disagree about the OCC's disciplinary recommendations. Here, the record reflects that the OCC and the Department discussed the possibility of withdrawing one of the charges against Sergeant Breslin and all of the charges against the other officers. Ultimately, this compromise failed.

Government Code section 3304(d)(4) recognizes that it may be impossible to complete an investigation involving multiple officers within a year. Here, where the alleged misconduct involved multiple officers, resulted in the death of a minor, involved an officer's claim that he acted in self-defense while trying to apprehend a fugitive, and was the subject of two criminal investigations, a criminal prosecution,[5] and a civil suit, we believe that an extension of ten months is reasonable.

ii. Multijursdictional Exception

Government Code section 3304(d)(3) exempts a public employer from compliance with the one-year statute of limitations where the investigation is a "multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies." We have applied this exemption to investigations of citizen complaints in past cases because San Francisco's system of police discipline, in the context of citizen complaints of misconduct, involves two separate agencies, with distinct authority and duties.

[5] Raymondo Cox's associate, Michael Negron, was investigated for, and charged with, assault with a deadly weapon (a car) against Sergeant Breslin. He pleaded guilty to that charge as part of a negotiated plea. (Mahoney Decl., ¶ 2and Exh. A.)

The Department has the authority, but not the duty, to investigate citizen complaints of police misconduct.[6] The OCC is under a duty to investigate all citizen complaints of police misconduct, but lacks the authority to initiate discipline. The Chief, and only the Chief, can decide whether to file disciplinary charges. Whether the Chief, through MCD gathers additional evidence, or simply reviews the OCC report and all the documents, transcripts, photographs, audiotapes and videotapes that support the report, the Department's jurisdiction and that of the OCC overlap. These two agencies must coordinate to perform the investigative and charging function that is the subject of section 3304(d)'s limitation period.

We find that a ten-month extension of the statute of limitations to allow for the coordination between the OCC and the Department in this multijurisdictional investigation is reasonable. The misconduct alleged here is very serious – the unjustified use of deadly force resulting in an accidental homicide, and the misrepresentation of the circumstances of the homicide in criminal and civil proceedings. The investigation was lengthy and complicated, and involved four officers. The OCC reviewed and analyzed the transcript of the preliminary hearing in the criminal case against Mr. Cox and his associate, 78 tapes and transcripts of interviews from the criminal investigation of the officers, and more than 7,000 pages of evidentiary materials, plus videotapes, photographs, forensic reports and physical evidence. As evidenced by the Chief's August 30, 2001 letter to the OCC, Chief Lau conducted a thorough review of this massive investigation before deciding that charges against the officers were unwarranted. At this point, the one-year statute of limitations had almost run.

Over the next ten months, the OCC and the Chief tried to reach agreement concerning the filing of charges in this case. When it appeared that no resolution could be reached, the OCC prepared a verified complaint. After a near compromise that would have resulted in withdrawal of all charges except the unnecessary force charge against Sergeant Breslin, the Commission heard the matter. The Chief and the OCC were never able to reach agreement, and the Chief filed the charges only upon the recommendation of the Commission. While it is unfortunate that coordination between the OCC and the Chief was time-consuming, and the two agencies were never able to reach agreement, we find that a ten-month extension of the statute of limitations in this case is reasonable.

3. Preliminary Injunction

The charged officers argue that the preliminary injunction issued by the Superior Court in *San Francisco Police Officers Association v. City and County of San Francisco*, San Francisco Superior Court Case No. 324635 (the "*SFPOA* case") enjoins this Commission from preceding with the disciplinary charges at issue here. We disagree. The preliminary injunction bars this Commission from "taking any punitive action against any Officer represented by the San Francisco Police Officers' Association wherein the only notice provided to the officer within one year is the OCC's Notice of Preliminary Findings, in the form at issue in this matter, unless an exception contained in the Government Code applies." In denying the charged officers' Motion to Dismiss, we do not contend that the OCC's notice, which was served within a year of the citizen complaint, is sufficient under section 3304(d). Instead, we find that the Chief's notice – the service of the charges upon the officers – was timely because four exceptions to the one-year statute of limitations -- Government Code section 3304, subsections (d)(1), (d)(3), (d)(4) and (d)(6) -- apply.

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[6] Pursuant to Charter section 4.127, the jurisdiction of OCC over citizen complaints does not interfere with the Chief's discretion to investigate alleged misconduct, regardless of the manner in which the misconduct comes to the Chief's attention.

The charged officers contend, however, that the Superior Court in the *SFPOA* case determined, as a matter of law, that the OCC and the Chief are not "multijurisdictional" agencies for the purposes of section 3304(d)(3). Therefore, the Superior Court's preliminary injunction in that case bars the Commission from relying on the multijurisdictional exception here. The Court of Appeal's unpublished decision in the *SFPOA* case belies the charged officers' assertion. The Court of Appeal found it unnecessary to decide the legal question whether the OCC and the Chief were "multijurisdictional" agencies. (See Mahoney Decl., Exh. T.) Instead, the Court of Appeal held that the Superior Court did not abuse its discretion when it found the multijurisdictional exception inapplicable due to the City's failure to present evidence of the necessity for a reasonable extension of the one-year statute of limitations.

CONCLUSION

Upon due consideration of the briefs of the parties, and for the reasons set forth above, this Commission hereby denies the charged officers' Motion to Dismiss Pursuant to California Government Code Section 3304(d). "

AYES: Commissioners Perry, Makras, Chan, Quaranta
ABSENT: Commissioner Friday

Commissioner Makras ended the meeting in honor of outgoing Mayor, the Honorable Mayor Willie L. Brown.

Thereafter, the meeting was adjourned at 6:45 p.m.

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Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

SAN FRANCISCO POLICE COMMISSION AGENDA

SF
P45
#1
1/14/04

REGULAR MEETING
WEDNESDAY, JANUARY 14, 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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Commissioner

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Commissioner

LT. EDWARD GEETER
Secretary

1. Pledge of Allegiance
2. Roll Call
3. Approval of Consent Calendar (ACTION ITEM)
4. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Darla J. McBride, Southern (File No. C03-309 JWA) (ACTION ITEM)
5. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
   b. Reassignment of Commissioner re: Disciplinary Charges filed against Inspector Kevin Whitfield from Commissioner Angelo Quaranta to Commissioner Connie Perry and Disciplinary Charges filed against Sergeant Eugene N. Yoshii from Commissioner Connie Perry to Commissioner Angelo Quaranta (NOTICE ITEM)
6. Election of Police Commission Officers (ACTION ITEM)
7. Chief's Announcements and Review of Recent Department Events
8. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
9. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

CONSENT CALENDAR

1. Request of the Chief of Police for Approval to Accept Identity Theft Booklets, from Wells Fargo Bank, for Distribution by the Fraud Detail to Identity Theft Victims

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

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For information about MUNI service call 923 6142

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Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

Minutes

JANUARY 14, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Chan, Friday, Quaranta
ABSENT: Commissioner Makras

APPROVAL OF CONSENT CALENDAR

Commissioner Chan made a motion to approve the Consent Calendar. Second by Commissioner Quaranta. Approved 4-0.

RESOLUTION NO. 11-04

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO ACCEPT IDENTITY THEFT BOOKLETS, FROM WELLS FARGO BANK, FOR DISTRIBUTION BY THE FRAUD DETAIL TO IDENTITY THEFT VICTIMS

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RESOLVED, that the Police Commission hereby approves the request of the Chief of Police to accept Identity Theft Booklets, from Wells Fargo Bank, for Distribution by the Fraud Detail to Identity Theft Victims.

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AYES: Commissioners Perry, Chan, Friday, Quaranta
ABSENT: Commissioner Makras

RESOLUTION NO. 9-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER DARLA J. MCBRIDE, SOUTHERN (FILE NO. C03-309 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Darla J. McBride, Star no. 4156, Southern, was called it having been set for this date; and

WHEREAS, Commissioner Victor Makras is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Darla J. McBride; therefore be it

RESOLVED, that Commissioner Victor Makras is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Darla J. McBride, and is to be set at a later date.

AYES: Commissioners Perry, Chan, Friday, Quaranta
ABSENT: Commissioner Makras

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

b. Reassignment of Commissioner re: Disciplinary Charges filed against Inspector Kevin Whitfield from Commissioner Angelo Quaranta to Commissioner Connie Perry and Disciplinary Charges filed against Sergeant Eugene N. Yoshii from Commissioner Connie Perry to Commissioner Angelo Quaranta

Lieutenant Edward Geeter, Police Commission Secretary, announced the reassignment of two disciplinary cases that were assigned at the last

meeting on January 7th.

The disciplinary charges filed against Inspector Kevin Whitfield which was assigned to Commissioner Quaranta is being reassigned to Commissioner Perry. The disciplinary charges filed against Sergeant Eugene Yoshii which was assigned to Commissioner Perry is being reassigned to Commissioner Quaranta.

ELECTION OF POLICE COMMISSION OFFICERS

Commissioner Friday made a motion to nominate Connie Perry to serve another term as President of the Police Commission. Second by Commissioner Quaranta. Approved 4-0.

Commissioner Friday made a motion to nominate Angelo Quaranta for Vice President. Second by Commissioner Chan. Approved 4-0.

RESOLUTION NO. 10-04

ELECTION OF OFFICERS FOR THE POLICE COMMISSION

RESOLVED, that the Police Commission elected Commissioner Connie Perry as President of the Police Commission and Commissioner Angelo Quaranta as Vice President.

AYES: Commissioners Perry, Quaranta, Chan, Friday
ABSENT: Commissioner Makras

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fagan congratulated the newly elected President and Vice President, Commissioners Perry and Quaranta.

Chief Fagan stated that the Police Department had their annual walk with SAFE in Chinatown and Clement Street to begin the Chinese New Year's celebration.

Chief Fagan also reported that, over the weekend, he attended a crime summit in Los Angeles sponsored by the FBI . The focus was juvenile gang violence. He stated that the summit received a lot of media attention and that Senator Feinstein is considering legislation on the issue of gang violence.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, congratulated the newly elected President and Vice President, Commissioners Perry and Quaranta.

Director Allen stated that Chief Investigating Officer Donna Medley has been meeting with Deputy Chief Bruce and working on ways to speed up the investigation process on minor or less serious complaints. He also reported that part of the investigator's responsibility is to go on ride-along with the station officer to get a first hand view of what officers face day-to-day. He stated that he will be going on a ride-along on Thursday with an officer from Central Station.

Commissioner Friday asked how many investigators does OCC have and if the unit has full staffing? Director Allen stated that the City has a formula that for every 150 officers, the OCC must have one investigator. At present, the OCC is at full staff with 15 investigators, three senior

investigators, and one chief investigator.

PUBLIC COMMENTS

Eddie Iglesias spoke regarding an OCC complaint he has filed regarding officers putting a device in him surgically and the OCC does not want to follow-up on the case.

Thereafter, the meeting was adjourned at 5:50 p.m.

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Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

VICTOR MAKRAS
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

ANGELO QUARANTA
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JANUARY 21, 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Meetings of January 7th, and 14, 2004 (ACTION ITEM)
4. Assignment of Commissioner and Setting of Date for Taking of Evidence on the Appeal of the Chief's Suspension of Inspector Marvetia Richardson, Fraud Unit (File No. M-JWA-D02-140) (ACTION ITEM)
5. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
6. Chief's Announcements and Review of Recent Department Events
7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
8. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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≡Minutes

JANUARY 21, 2004 **CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:00 p.m., in Closed Session.

PRESENT: Commissioners Perry, Quaranta, Chan, Friday, Makras

Closed Session held pursuant to Government Code 54957

PUBLIC EMPLOYEE APPOINTMENT
To Determine Nominations for Chief of Police to Submit to the Mayor

JANUARY 21, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Quaranta, Chan, Friday, Makras

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a)

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Motion by Commissioner Chan to disclose discussion held in Closed Session. Second by Commissioner Makras. Approved 5-0.

Commissioner Perry said the following statement:

"I am please to inform you that the Police Commission met in Closed Session this evening and voted unanimously to nominate Assistant Chief Heather Fong for the position of Acting Chief of Police."

Acting Chief Fong addressed the Commission, thanking Mayor Newsom and the Commission for the confidence being shown in her. In her address, she pointed to five areas she plans on making changes in: (1) General policing, starting with Academy Class #207; (2) Discipline; (3) Field Operation, patrol force; (4) Investigation Bureau; and (5) Technology.

Mr. Steve Kawa, Mayor's Chief of Staff, addressed the Commission stating that on behalf of Mayor Newsom, he wanted to thank the Commission for acting so expeditiously in making such an outstanding recommendation to the Mayor and that the Mayor looks forward to accepting it.

RESOLUTION NO. 13-04

NOMINATION OF ASSISTANT CHIEF HEATHER FONG TO BE ACTING CHIEF OF POLICE OF THE SAN FRANCISCO POLICE DEPARTMENT

RESOLVED, that the Police Commission voted unanimously to nominate Assistant Chief Heather Fong for the position of Acting Chief of Police of the San Francisco Police Department.

AYES: Commissioners Perry, Quaranta, Chan, Friday, Makras

(Commissioner Chan is excused at 6:00 p.m.)

APPROVAL OF MINUTES FOR THE MEETINGS OF JANUARY 7TH, AND 14, 2004

Motion by Commissioner Quaranta to approve minutes for the meetings

of January 7th and 14, 2004. Second by Commissioner Friday. Approved 4-0.

RESOLUTION NO. 12-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON THE APPEAL OF THE CHIEF'S SUSPENSION OF INSPECTOR MARVETIA RICHARDSON, FRAUD UNIT (FILE NO. M-JWA-D02-140)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in the appeal of the Chief's Suspension of Inspector Marvetia Richardson, Star No. 1246, Fraud Unit, was called it having been set for this date; and

WHEREAS, Commissioner Wayne Friday is hereby assigned to conduct taking of evidence in the appeal of the Chief's Suspension filed by Inspector Marvetia Richardson; therefore be it

RESOLVED, that Commissioner Wayne Friday is hereby assigned to conduct taking of evidence in the appeal of the Chief's Suspension filed by Inspector Marvetia Richardson, and is to be set at a later date.

AYES: Commissioners Perry, Quaranta, Friday, Makras
ABSENT: Commissioner Chan

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

None

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fong introduced Commander Harper from the Airport Bureau. Commander Harper introduced three officers from the Airport Dignitary Protection Unit: Sergeant Larry Ratti, Officer Larry Higgins, Officer Bob Massola. Thereafter, U.S. Marshals Federico Racha and McCloud presented the three officers with Plaques of Recognition for jobs well done in dealing with the many dignitaries and other VIPs entering and leaving the San Francisco International Airport.

Deputy Chief Suhr addressed the Commission and stated that over the weekend, there were three homicides. One victim was a 15-year old. Chief Suhr stated, as a result of the shooting and other shootings in the City, that he, Acting Chief Fong, District Attorney Harris, and Supervisor Maxwell attended several community meetings addressing the issue.

Closing her report, Acting Chief Fong stated that General Order 2.09 dealing with MCD issues will be ready for the Commission's review next week.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, reported that he went on his first ride-along on Thursday with officers from Central Station and found it ever enlightening. He will be requiring his investigators to do more ride-alongs in order to get a better view of the other side. He also marched with officers in the MLK birthday celebration.

PUBLIC COMMENT

Mr. Louis Dillon spoke regarding a complaint and stated that there

seem to be no connection between making a complaint and following up with the district attorney.

Thereafter, the meeting was adjourned at 6:20 p.m.

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

SAN FRANCISCO POLICE COMMISSION AGENDA

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WAYNE FRIDAY
Commissioner

VICTOR MAKRAS
Commissioner

LT. EDWARD GEETER
Secretary

REGULAR MEETING
WEDNESDAY, JANUARY 28, 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance

2. Roll Call

3. Approval of Minutes for the Meeting of January 21, 2004 (ACTION ITEM)

4. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Michael J. Reesink, Medical Liaison (File No. C03-004 JWA) (Action Item)

5. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

6. Chief's Announcements and Review of Recent Department Events

7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events

8. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

9. Disposition on Disciplinary Charges filed against Sergeant Damon Keeve, Support Services (File No. C01-175 JWA) (ACTION ITEM)

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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For information about the meeting call 553 1667(v) or 553 9194 (tty)

=Minutes

JANUARY 28, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Chan, Friday, Makras
ABSENT: Commissioner Quaranta

APPROVAL OF MINUTES FOR THE MEETING OF JANUARY 21, 2004

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Commissioner Friday made a motion to approve the minutes of the Police Commission meeting of January 21, 2004. Second by Commission Chan. Approved 4-0.

RESOLUTION NO. 14-04

/04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER MICHAEL J. REESINK, MEDICAL LIAISON (FILE NO. C03-004 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Michael J. Reesink, Star No. 1658, Medical Liaison, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Michael J. Reesink; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Michael J. Reesink, and is to be set at a later date.

AYES: Commissioners Perry, Chan, Friday, Makras
ABSENT: Commissioner Quaranta

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Friday asked if there were any objections to not holding a Commission meeting on February 11th. Hearing no objection, Commissioner Perry announced that the Police Commission will not have a meeting on February 11th.

CHIEF=S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fong introduced Mr. Mark Laret, CEO of UCSF Children=s Hospital, Mr. Kieran Flaherly, UCSF Children=s Hospital, and Ms. Kim Scurr, Assistant Director of UCSF Children=s Hospital Pediatric Health Center. Mr. Laret addressed the Commission and presented a plaque to Chief Fong acknowledging a $10,000.00 contribution to the hospital by the men and women of the Police Department who raised the money by sponsoring the Macy=s Christmas Tree Lights Program for $10.00 per light and the Buzz the Fuzz Program.

Chief Fong reported on several issues that the department has been

working on this past week:

1. The modified duty general order, approved by the Commission. Those officers affected by the revised general order has been notified so that they can be aware of the general order=s time line.

2. The department is revamping the Supervisors= Manual which directs supervisors in completing certain personnel investigations.

3. On Tuesday, January 27, 2004, the Department held a joint press conference with AMothers of Murdered Children@ with the hope of generating witnesses to come forward.

4. Chapter 96 of the Administrative Code which deals with discipline provisions is now on the Department=s web site.

5. At last week=s command staff meeting, it was discussed that each commander will meet with their command and discuss the direction the Department was going in regards to customer service as well as uniform and grooming standards.

6. Operation Cease Fire commenced last week and that tomorrow, Thursday, January 29th, there will be a community meeting at 7:00 p.m. at the Gloria Davis Middle School to discuss with the community what cease fire is all about.

7. Chief Fong and Commander Dudley attended a meeting in Sacramento to discuss homeland security. The National Guard will not be leaving the Golden Gate Bridge as reported by the media.

Chief Fong introduced Lt. Keohane, Legal Division, who reported on the incident where medical staff at SF General Hospital, for ethical reasons, refused to honor a search warrant to remove drugs from the private cavity of a woman who was under arrest for drug sales. Lt. Keohane stated that the Department is looking at other options in case a similar situation occur in the future.

Deputy Chief Bruce, Investigations Bureau, introduced Captain Hettrich, Narcotics Unit, who reported on three individual drug arrests where drugs were recovered worth over $1 million on the street.

Lt. Murphy, Gang Task Force, reported on the Cease Fire Operation this past week. He reported that during the two days of Operation Cease Fire, they have made several arrests and have confiscated seven guns. They have identified a shooter involved in one of the shooting this month and are currently looking for him.

Deputy Chief Bruce listed a few top issues that the Investigations Bureau are involved in. Things such as changes in the rules for selection of best candidates, the Cease Fire Operation, enhanced relationship with parents of murdered children, and assigning investigations to district stations.

OCC DIRECTOR=S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, informed the Commission that he attended the press conference with the police and the mothers of murdered children and he felt that it was a good meeting.

PUBLIC COMMENTS

Mr. Eddie Iglasias wanted to make a complaint that the OCC dropped his complaint before the nine-month time period expired. He stated that the police has placed surveillance cameras and listening devices in him.

Ms. Hamilton, resident Webster and Hayes, asked for police help in ridding the area and the hallway of her building of drug dealers.

Chief Fong stated that she will have the captain contact her personally.

DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST SERGEANT DAMON KEEVE, SUPPORT SERVICES
(FILE NO. C01-175)

Taken off calendar.

Thereafter, the meeting was adjourned at 6:20 p.m.

_____
Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

ANGELO QUARANTA
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

VICTOR MAKRAS
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING 2004
WEDNESDAY, February 4, 2003
Open Session 4:00 p.m.
Closed Session 5:00 p.m.
Reconvene Open Session 5:30 p.m.

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Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Convene in Open Session: Roll Call

2. Presentation of the Department's New Crime Maps System, which will allow the Department to track the location and type of crime committed in each part of the City, and will provide the public with access to that information

Closed Session (5:00 p.m.)

3. Public Comments on all matters pertaining to the Closed Session

4. Closed Session held pursuant to Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d)

   CONFERENCE WITH LEGAL COUNSEL - Existing Litigation
   a. Clara Tempongco, et al vs. City and County of San Francisco, USDC No. C01-3927

Open Session (5:30 p.m.)

5. Reconvene in Open Session; Pledge of Allegiance; Roll Call

6. Discussion and vote to elect whether to disclose any or all discussion held in Closed Session (San Francisco Administrative Code Section 67.12(a) (ACTION ITEM)

7. Approval of Minutes for the Police Commission Meeting of January 28, 2004 (ACTION ITEM)

8. Approval of Consent Calendar (ACTION ITEM)

9. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

10. Chief's Announcements and Review of Recent Department Events

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, FEBRUARY 4, 2004
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco

11. OCC Director's Report re: Staffing and Budget and Summary of Recent Events (DISCUSSION ONLY)

12. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

CONSENT CALENDAR

1. Request of Captain William Davenport for Approval to Accept a Gift of a Sports Picture of the 49ers, valued at $300.00, from Citizens of the Southern District/Community

2. Recommendation of the City Attorney for settlement of the following claim:
   a. Clara Tempongco, et al vs. City and County of San Francisco, USDC No. C01-3927

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*There will be Public Comments on any item before or during discussion of each item.

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(Chapter 67 of the San Francisco Administrative Code)

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Minutes

FEBRUARY 4, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 4:15 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Quaranta, Chan, Makras
ABSENT: Commissioner Friday

PRESENTATION OF THE DEPARTMENT'S NEW CRIME MAPS SYSTEM, WHICH WILL ALLOW THE DEPARTMENT TO TRACK THE LOCATION AND TYPE OF CRIME COMMITTED IN EACH PART OF THE CITY, AND WILL PROVIDE THE PUBLIC WITH ACCESS TO THAT INFORMATION

Commander Brown, Administrations Bureau, gave a brief introduction of the new maping system. She introduced Lt. Thomas Bruton, MIS Unit. Lt. Bruton, using a projector and a computer, gave a detailed demonstration of the crime maping system. This system will allow the department to track the location and type of crimes committed in each part of the city and will provide the public with access to that information.

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FEBRUARY 4, 2004 **CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:00 p.m., in Closed Session.

PUBLIC COMMENTS ON ALL MATTERS PERTAINING TO THE CLOSED SESSION

None.

CONFERENCE WITH LEGAL COUNSEL – Existing Litigation
a. Clara Tempongco, et al. vs. City and County of San Francisco, USDC NO. C01-3927

RECONVENE TO OPEN SESSION

PRESENT: Commissioners Perry, Quaranta, Chan, Makras
ABSENT: Commissioner Friday

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

Commissioner Perry asked that Item No. 2 on the Consent Calendar be voted on individually. Motion by Commissioner Quaranta, second by Commissioner Chan. Approved 4-0.

Roll call vote on Item #2 of the Consent Calendar to approve the settlement recommendation by the City Attorney on the Clara Tempongco, et al. vs. City and County of San Francisco, USDC NO. C01-3927: Commissioner Perry – Yes, Commissioner Quaranta – Yes, Commissioner Chan – Yes, Commissioner Makras – No.

Commissioner Makras made a motion to approve the remaining item on the Consent Calendar. Second by Commissioner Quaranta. Approved 4-0.

APPROVAL OF MINUTES FOR THE POLICE COMMISSION MEETING OF JANUARY 28, 2004

Put over to the next meeting.

APPROVAL OF THE CONSENT CALENDAR

RESOLUTION NO. 15-04

APPROVAL OF THE REQUEST OF CAPTAIN WILLIAM DAVENPORT TO ACCEPT A GIFT OF A SPORTS PICTURE OF THE 49ers, VALUED AT $300.00, FROM CITIZENS OF THE SOUTHERN DISTRICT/COMMUNITY

RESOLVED, that the Police Commission hereby approves the request of Captain William Davenport to accept a gift of a sports pictures of the San Francisco 49ers, valued at $300.00, from the citizen of the Southern District/Community. The citizens are Mr. Terrence Alan, Mr. John Wood, Mr. Carlton Solet, Mr. Ira Sandler, and Mr. Steven Lee.

AYES: Commissioners Perry, Quaranta, Chan, Makras
ABSENT: Commissioner Friday

RESOLUTION NO. 16-04

CLARA TEMPONGCO, et al vs. CITY AND COUNTY OF SAN FRANCISCO

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Clara Tempongco, et al. vs. City and County of San Francisco,@ in United States District Court No. C01-3927, be, and the same is hereby approved.

Date of Incident: February 27, 2000

AYES: Commissioners Perry, Quaranta, Chan
NAYS: Commissioner Makras
ABSENT: Commissioner Friday

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry asked when will the Commission receive another report on the Traffic Stop Survey.

Chief Fong informed the Commission that Dr. Lutes is collecting the statistics and they should be ready shortly.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fong addressed the Commission and identified an item on the Commission agenda that involved domestic violence which resulted in a death several years ago. She introduced, in light of that incident, Captain O'Malley to address what the department is doing to assure that this type of situation does not happen again in the future.

Captain O'Malley, Juvenile Division/Family Services, introduced Inspector McFadden. Inspector McFadden stated that most of the problems stem from training and communication between the police department and the probation department, district attorney's office, parole, and other units. He stated that training at the academy has been increased from six hours to 16 hours and one inspector will follow his case through the process until it is filed with the district attorney's office. Also, every

report has a follow up procedure with the victim and the district attorney, and each case has a sign-off sheet to insure proper communication.

Deputy Chief Robinson, Administration, updated the Commission on the activities performed by the Admin Bureau. Chief Robinson introduced Lt. Lazar, Academy, who outlined the duties of the academy staff.

Captain Parra, Staff Services, spoke on the issue of Academy Class 206, which graduated from the Academy on January 16th . Captain Parra also stated that Class 207 is scheduled to begin February 23rd.

Chief Fong addressed the Commission and stated that members of the Command Staff have met with the Mayor's Homeless cabinet, with community groups, and with the district attorney's office in order to improve and update information and communication.

Chief Fong also stated that, in the past week, Operation Cease Fire has produced five warrant arrests, 32 narcotic arrests, five other felony arrests, 19 gang members arrested, three driving violations, and 11 guns recovered.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, reported that he met with Captain O'Leary regarding tracking cases and that, within a few weeks, will be ready to present the results to the Commission.

PUBLIC COMMENT

None.

Thereafter, the meeting was adjourned at 6:15 p.m.

_____
Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

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Secretary

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CALENDAR OF PROCEEDINGS
POLICE COMMISSION MEETING

There will be no Police Commission meeting on Wednesday, February 11, 2004. The next Police Commission Regular Meeting will be on ***Wednesday, February 18, 2004***, at the Thomas J. Cahill Hall of Justice, Room 551, 850 Bryant Street, San Francisco, at 5:30 p.m.

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Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
WEDNESDAY, FEBRUARY 18, 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes of the Meetings of January 28, 2004 & February 4, 2004 (ACTION ITEM)
4. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
5. Chief's Announcements and Review of Recent Department Events
6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
7. Request of the Chief of Police for Approval to Apply for and Accept Retroactively, and Expend Funds from the California Office of Traffic Safety (OTS) to Implement the Occupant Protection Program (ACTION ITEM)
8. Public Comment
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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Minutes

FEBRUARY 18, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Quaranta, Chan, Makras
ABSENT: Commissioner Friday

APPROVAL OF MINUTES OF THE MEETINGS OF JANUARY 28, 2004 AND FEBRUARY 4, 2004

Motion by Commissioner Quaranta to approve minutes of the meetings of January 28, 2004 and February 4, 2004. Second by Commissioner Chan. Approved 4-0.

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POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

None

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fong informed the Commission that she has met with the district attorney to discuss the backlog in homicide cases. There are currently 75 backlog homicide cases. The district attorney is having meetings with the Homicide Unit to discuss which cases should be handled first and ways to get more witnesses to come forward.

Chief Fong, Deputy Chiefs Bruce and Suhr have met with Supervisor Maxwell to discuss gun violence within the city. The Command Staff have had meetings with Reverend Britch and Reverend Frazier to discuss a curfew law. They will be working with the city attorney and the district attorney to see what can be done.

The Command Staff have had meetings with the security personnel for Bio-tech. Conferences are scheduled for June this year.

Chief Bruce reported on two old homicide cases. He stated that one homicide occurred in 1979 and the other occurred in 1981. Both suspects are in prison on unrelated charges and have been identified through DNA evidence. They were scheduled to be paroled this month but now will stand trial for rape and murder.

Deputy Chief Suhr reported on several activities that FOB have been involved in:

- Over the January 14th weekend, several demonstrations occurred, two involved labor issues with Safeway Stores at the Marina and 30th Street Mission Safeway Store.
- The full imployment of the bean bag shot gun to the whole patrol force
- Change the starting time of the day watch to 7:00 a.m. hoping this will insure more officers in the afternoon hours
- A gang fight at J. O'Conner school where one student was stabbed
- Also, at Mission High School, a student with a gun in his backpack had the gun accidentally discharge
- Are re-evaluating the performance evaluation program to help evaluate officers' performance

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, reported on two issues: First, his office, like the police department, is reevaluating their performance evaluation process with the hope of improving performance. Also, he has met with Deputy Chief Pengel, city attorneys from San Mateo and San Francisco, along with the sheriff and police department of San Mateo to discuss documents release protocol. Because the Airport is not in the City and County of San Francisco, certain documents are not kept with the airport police but rather with the city of San Mateo. Problems are being worked out and he hopes that a policy will be completed soon.

REQUEST OF THE CHIEF OF POLICE FOR APPROVAL TO APPLY FOR AND ACCEPT RETROACTIVELY, AND EXPEND FUNDS FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) TO IMPLEMENT THE "AVOID THE 2 PROGRAM"

Sergeant Dave Collins spoke on the issue of the grant. Commissioner Quaranta made a motion to approve the grant request. Second by Commissioner Chan. Approved 4-0.

RESOLUTION NO. 17-04

APPROVAL OF THE REQUEST OF THE CHIEF OF POLICE TO APPLY FOR RETROACTIVELY, ACCEPT, AND EXPEND FUNDS FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY (OTS) TO IMPLEMENT THE AAVOID THE 2@ PROGRAM

RESOLVED, that the Police Commission hereby approves request of the Chief of Police to retroactively apply for, accept, and expend funds from the California Office of Traffic Safety (OTS) to implement the AAvoid the 2@ Program, including any augmentations, extensions, and modifications.

AYES: Commissioners Perry, Quaranta, Chan, Makras
ABSENT: Commissioner Friday

PUBLIC COMMENT

None.

Thereafter, the meeting was adjourned at 6:00 p.m.

_____
Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

ANGELO QUARANTA
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

VICTOR MAKRAS
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
WEDNESDAY, FEBRUARY 25, 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance

2. Roll Call

3. Approval of Minutes of the Meeting of February 18, 2004 (ACTION ITEM)

4. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

5. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

6. Approval of the Awards Committee's Recommendations (ACTION ITEM)

7. OCC Director's Report re: Staffing and Summary of Recent Events (DISCUSSION ONLY)

8. Discussion and Possible Action to Approve the OCC Budget for Fiscal Year 2004-2005 (ACTION ITEM)

9. Presentation of the 2003 Fourth Quarter Compliance Report per Section VII of the Document Disclosure Protocol Between the OCC and the SFPD (DISCUSSION ONLY)

10. Public Comment
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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Lobbyist Registration and Reporting Requirements
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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

Minutes

FEBRUARY 25, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Quaranta, Chan, Makras
ABSENT: Commissioners Perry, Friday

APPROVAL OF MINUTES OF THE MEETING OF FEBRUARY 18, 2004

Commissioner Chan made a motion to approve the minutes of the meeting of February 18, 2004. Second by Commissioner Makras. Approved 3-0.

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POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioners Quaranta, Chan and Makras congratulated the newly appointed Command Staff.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fong introduced her command staff: Deputy Chief Pengel, Airport, Commander Sam Craig, Airport, Deputy Chief Antonio Parra, Administration, Deputy Chief Morris Tabak, Investigations, Deputy Chief Suhr, FOB, Command Dave Shinn, FOB, Commander Mike Puccinelli, FOB and Commander Harper, Parking and Traffic.

Chief Fong reported briefly on several issues. She met with Supervisor Ammiano to discuss problems in District 9, mainly traffic issues. She also met with General Myide and other agencies to discuss homeland security issues.

On February 19th, she met with the U.S. Attorney and was briefed on matters of mutual interest with other city agencies.

On February 21st, Deputy Chief Suhr, Captains Dillon and Sanford met with Supervisor Sandoval and the community to discuss community concerns in the OMI neighborhood.

On February 23rd, the 207 recruit academy class began with 44 new recruits.

On February 24th, P.O.S.T. began its audit of the police academy. Preliminary reports indicate that we are passing with flying colors. Also on the 24th, the Chief met to discuss general order on modified duty and to ensure that this order are kept up to date.

The Chief also stated that members of the department met with the assistant district attorney and FOB personnel to discuss how to pursuit and prosecute quality of life violations. The Chief also stated that the department have been working with the PUC on the issue of lighting in the area of West Point and Middle Point.

The department also met with the City Attorney and the District Attorney to discuss adult entertainment clubs being in violation of city and state laws.

Sergeant Dan Greely, Airport Bureau, officer-in-charge of the K-9 and Explosive Ordinance Unit, introduced Officer Bob Chapman, Senior Bomb Technician for the Department. Officer Chapman displayed a

picture of a "total containment vessel" capable of containing weapons of mass destruction. Officer Chapman stated that this is the only such vessel owned by a police department in the U.S.

APPROVAL OF THE AWARDS COMMITTEE'S RECOMMENDATIONS

Commissioner Makras made a motion for approval of the Award Committee's recommendations. Second by Commissioner Chan. Approved 3-0.

RESOLUTION NO. 18-04

AWARDS GRANTED TO MEMBERS OF THE POLICE DEPARTMENT

WHEREAS, the following named members of the Police Department have been commended for courageous service under the provisions of General Order 3.09, Section I.A.1 of the San Francisco Police Department, as approved by the Awards Committee on Friday, February 13, 2004; and

WHEREAS, Acting Chief of Police Heather Fong has recommended to the Police Commission that the said members be rewarded under the provisions of Section 8.405(a)(4) of the Charter of the City and County of San Francisco; therefore be it

RESOLVED, that Officers Kevin Edison and Luis DeJesus are hereby awarded Silver Medals of Valor and granted rewards of $1000.00 each, as provided for under said section of the Charter; and be it further

RESOLVED, that Inspector Daniel Leydon and Officer John Torrise are hereby awarded Bronze Medals of Valor and granted rewards of $500.00 each, as provided for under said section of the Charter; and be it further

RESOLVED, that Inspectors Daniel Leydon, John Keane, Jeffrey Levin, Darcy Keller, Spencer Gregory, Ronald Artale, Roland Tolosa, and Officer Vince Neeson are hereby awards Meritorious Conduct Awards and granted rewards of $200.00 each, as provided for under said section of the Charter.

Also awarded are Purple Hearts for members on the Wall of Honor (Posthumously) and Inspector Lawence Mack.

Police Commission Commendations are awarded to Sergeants Dominic Yin, Charles Limbert, Lori Cadigan, Marty Lalor, and Donald Hensic, Inspectors Daniel Gardner, Steven Mulkeen, Jim Miranda, Officers Ferdinand Dimapasoc, Anthony Damato, Scott Warnke, Scott Ryan, Peter Schlegle, Lorraine Lombardo, Bryant Woo, Glen Ghiselli, Tony Damato, Tracy Boes, Scott Ryan, Scott Warnke, Dave Herman, Steve Landi, Rod Liberta, Luke Martin, Kelly Paul, Christine Arndt, Reese Burrows and John Vankoll.

Life Saving Awards to Sergeant Anthony Manfreda, Officers Eric Mahoney, Jeff Aloise, and Kevin Stancombe.

OCC DIRECTOR'S REPORT RE: STAFFING AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, congratulated the newly appointed Command Staff.

Mr. Allen stated that he met with the new recruit class at the academy.

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE OCC BUDGET FOR FISCAL YEAR 2004-2005

Put over for next week.

PRESENTATION OF THE 2003 FOURTH QUARTER COMPLIANCE REPORT PER SECTION VII OF THE DOCUMENT DISCLOSURE PROTOCOL BETWEEN THE OCC AND THE SFPD

Lieutenant Keohane, Legal Division, update the Commission on the department's compliance with document disclosure protocol between the SFPD and the OCC.

PUBLIC COMMENT

Mr. Mike Currier, Outer Mission Resident Association, spoke in support of Captain Dillon and asked that he not be transferred.

Mr. Ron Dudum read a letter and asked not to transfer Captain Sanford from Taraval Station.

Mr. Pat McGuire asked the Chief not to transfer Captain Sanford.

Mike asked the Chief not to transfer Captain Sanford.

Unidentified asked the Chief not to transfer Captain Sanford.

Unidentified, youth center counselor in the Taraval District, asked that Captain Sanford not be transferred.

Mr. Leroy Ives, Excelsior District, asked that Captain Dillon not be transferred.

Ms. Machen asked that Captain Sanford not be transferred.

Mr. Ernie Meriweather asked that Captain Sanford not be transferred.

Thereafter, the meeting was adjourned at 6:20 p.m.

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

ANGELO QUARANTA
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

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Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
WEDNESDAY, MARCH 3, 2004
Closed Session 5:15 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

Closed Session (5:15 p.m.)

1. Convene in Open Session: Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Closed Session held pursuant to Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d)

   CONFERENCE WITH LEGAL COUNSEL – Existing Litigation
   a. Laura Bianchi v. City and County of San Francisco, et al., San Francisco Superior Court No. 423-459

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Open Session (5:30 p.m.)

4. Reconvene in Open Session: Pledge of Allegiance

5. Roll Call

6. Discussion and vote to elect whether to disclose any or all discussion held in Closed Session (San Francisco Administrative Code Section 67.12(a) (ACTION ITEM)

7. Approval of Minutes of the Meeting of February 25, 2004 (ACTION ITEM)

8. Approval of Consent Calendar (ACTION ITEM)

9. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

10. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

11. OCC Director's Report re: Staffing and Summary of Recent Events (DISCUSSION ONLY)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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SAN FRANCISCO POLICE COMMISSION AGENDA
WEDNESDAY, MARCH 3, 2004
Closed Session 5:15 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

12. Public Comment
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

13. Disposition on Disciplinary Charges filed against Sergeant Kyle K. Ching, Mission (File No. C03-313 JWA) (ACTION ITEM)

CONSENT CALENDAR

1. Recommendation of the City Attorney for settlement of the following claim:

   a. Laura Bianchi v. City and County of San Francisco, et al., San Francisco Superior Court No. 423-459

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Minutes

MARCH 3, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:20 p.m., in Closed Session.

PRESENT: Commissioners Perry, Quaranta, Chan, Friday, Makras

PUBLIC COMMENTS ON ALL MATTERS PERTAINING TO THE CLOSED SESSION

None

VOTE ON WHETHER TO HOLD CLOSED SESSION TO CONFER WITH LEGAL COUNSEL. (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d))

Commissioner Quaranta made a motion to enter into Closed Session. Second by Commissioner Chan. Approved 4-0.

**Commissioner Friday was absent for Closed Session vote.*

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CLOSED SESSION HELD PURSUANT TO GOVERNMENT CODE SECTION 5496.9 AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d)

CONFERENCE WITH LEGAL COUNSEL – Existing Litigation

a. Laura Bianchi v. City and County of San Francisco, et al., San Francisco Superior Court No. 423-459

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:50 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Quaranta, Chan, Friday, Makras

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a)

Commissioner Chan made a motion not to disclose discussion held in Closed Session. Second by Commissioner Quaranta. Approved 5-0.

APPROVAL OF MINUTES OF THE MEETING OF FEBRUARY 25, 2004

Commissioner Quaranta made a motion to approve the minutes of the meeting of February 25, 2004. Second by Commissioner Makras. Minutes approved 5-0.

APPROVAL OF CONSENT CALENDAR

RESOLUTION NO. 19-04

LAURA BIANCHI v. CITY AND COUNTY OF SAN FRANCISCO, et al.

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Laura Bianchi vs. City and County of San Francisco, et al.,@ in San Francisco Superior Court No. 423-459, be, and the same is hereby approved.

Date of Incident: September 2001 through August 14, 2003

AYES: Commissioners Perry, Quaranta, Chan, Friday, Makras

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Friday congratulated Chief Fong and her newly appointed command staff and stated that he was not present at the meeting when the command staff was introduced.

Commissioner Friday also commented on an article in the newspaper where Bay Area Police Watch made negative comments about the new command staff. Commissioner Friday stated that it is one thing that the Bay Area Police Watch every Wednesday come to the Police Commission to get press time and to insult the department, but he felt that it was an insult to complain about the command staff before it even began to take office. Commissioner Friday stated that the Police Department had had its trouble in the past two years but it is one of the best police department in America and should be given a hand.

Commissioner Perry also congratulated the command staff because she was also absent at last week's meeting.

MARCH 3, 2004
REGULAR MEETING
CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fong addressed the Commission on the activities of the department this past week:

Saturday, February 28th, Chief Fong, Command Puccinelli, and Captain Corrales attended a town hall meeting in District 8 at James Lick Middle School to discuss problems within the community. Every city departments participated.

Also on that day, the Chief attended a safety fair at Ceasar Chavez School. SFPD, CHP, and the Sheriffs Department attended the event.

Commander Puccinelli and Captain Tacchini attended a town hall meeting in District 3, sponsored by Supervisor Peskin. The main topic of discussion was the Broadway Area nightlife activities.

Chief Fong stated that 13 Captains were reassigned to different duties. Chief Fong also met with the Civil Service to discuss testing, banding, and certification.

Chief Fong reported on a knife-wielding man that was subdued by using the extended range impact weapon and taken into custody.

Chief Fong and Deputy Chiefs Suhr and Tabak met with citizens group regarding concerns with how the police respond to and prosecute prostitution cases.

Chief Fong also met with the Adult Probation Department to discuss ways on how the Adult Probation Department can keep in contact with people who are on probation.

Chief Fong announced that Officer Brophy, Richmond Station School Car, was chosen as the Rotary Officer of the Year.

Commander Shinn went with the Mayor on a walk on Market Street to see first hand what the city is doing to keep the area clean.

Deputy Chief Suhr has been working with the Mayor's office on an event called "March Gladness," which involves youth, sports, and having a safe clean place to participate in.

Deputy Chief Tabak, Investigations Bureau, updated the Commission on activities of the Homicide Unit. The unit will increase to 18 investigators which will allow investigators more time to investigate open cases.

Sergeant Ali reported on a shooting that occurred in the Sunnydale Area where the victim was not cooperating and the next day he was shot by the same suspect who was identified and arrested.

Inspector Gardner reported on a bank robbery that involved two females. With the help of the FBI, the suspects were identified and arrested.

Inspector Leonard Broberg reported on shootings that occurred two times involving the same suspects and witnesses. One of the two suspects is in custody and the witnesses/victims were moved and relocated.

OCC DIRECTOR'S REPORT RE: STAFFING, BUDGET, AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, reported on the meeting with the department and the computer company working with the OCC and the department on a tracking system that will track OCC and MCD cases. Mr. Allen stated that the program looks promising.

PUBLIC COMMENT

Malaika Parker, Bay Area Police Watch, stated that comments made about police misconduct is not a play towards the media. She stated that the community has some real concerns about police misconduct.

HEARING OF SERGEANT KYLE K. CHING, MISSION (FILE NO. C03-313 JWA)

The hearing of Sergeant Kyle K. Ching, Star No. 1133, Mission, was called it having been set for this date. Sergeant Ching was charged, in a properly verified complaint by Alex Fagan, Former Chief of Police of San Francisco Police Department, with violating the Rules and Procedures as follows:

SPECIFICATION NO. 1

Engaging in conduct which undermines the good order, efficiency and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department general Order 2.01 of the San Francisco Police Department);

SPECIFICATION NO. 2

Engaging in conduct which undermines the good order, efficiency and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department);

Mr. Jerry W. Akins, Attorney at Law, appeared on behalf of the San Francisco Police Department.

Sergeant Kyle Ching appeared in person and was represented by Mr. Steve Johnson, POA.

Sergeant Kyle Ching admitted to the truth of the allegations contained in Specifications No. 1 and No. 2 and accepts responsibility for his actions.

The Police Commission unanimously accepted the plea of Sergeant Ching.

Based on Sergeant Ching's admission, the Commission requested a recommendation from Acting Chief of Police Heather Fong.

It is the recommendation of Acting Chief of Police Heather Fong that Sergeant Ching be suspended on Specification No. 1 for forty-five (45) days, with thirty (30) days imposed forthwith and fifteen (15) days on Specification 2 with five (5) days served forthwith, consecutive to the thirty (30) days imposed on Specification No. 1 and ten (10) days held in abeyance for two (2) years. Sergeant Ching must write a letter of apology to the Highway Patrol Officers, which must be approved by Commissioner Makras before being sent. Sergeant Ching has requested, as part of this disposition to participate in the department's alternative punishment program set out in Department's General Order 11.11 for the two (2) years that part of his punishment is held in abeyance. The twenty-five (25) days held in abeyance shall not be imposed on condition that Sergeant Ching not engage in any acts of misconduct for the two (2) years, and that he complete the terms of the discipline imposed in this matter.

The Commission took the matter under submission and the following resolution was adopted:

RESOLUTION NO. 20-04

DECISION - HEARING OF SERGEANT KYLE K. CHING, MISSION (FILE NO. C03-313 JWA)

WHEREAS, on December 3, 2003, Alex Fagan, Former Chief of Police of the San Francisco Police Department, made and served charges against Sergeant Kyle K. Ching, as follows:

SPECIFICATION NO. 1:
Engaging in conduct which undermines the good order, efficiency and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department general Order 2.01 of the San Francisco Police Department);

(1) At all times herein mentioned Kyle K. Ching, Star Number 1133, (referred to as "The accused") was a police officer, holding the rank of Sergeant employed by the San Francisco Police Department, assigned to the Field Operations Bureau, Mission Station.

(2) As a member of the department, the accused was and is responsible for knowing and obeying the rules, orders, and procedures of the San Francisco Police Department;

(3) On June 3, 2002, at 0330 hours, two California Highway Patrol Officers were driving in a marked highway Patrol Vehicle eastbound on Interstate Highway 580 in Alameda County. The Highway Patrol Officers observed a full size black Dodge Ram pickup parked on the right shoulder, just east of Greenville Road. The hazard lights on the pickup were flashing. The pickup had not been there when the passed the spot an hour earlier. They stopped to do a well being check on the occupants.

(4) The driver (Officer No. 1) parked the Patrol vehicle behind the pickup truck and the passenger officer (Officer No. 2) exited the vehicle and approached the pickup. When Officer No. 2 looked into the car, he observed that the accused was behind the steering wheel, in the drivers seat with the back rest reclined and he appeared to be asleep. A woman was seated next to him, also asleep. The passenger side window was broken and there was much broken glass outside the pickup on the running board and on the ground. There was also broken glass inside the cab of the pickup including broken

glass on the clothes of the woman. The accused has an abrasion on his right elbow which was bleeding.

(5) Officer No. 2 awakened the accused and after getting him to exit the pickup, the accused refused to answer most of the pre field sobriety test questions. Officer No. 2 administered a field sobriety test. The accused was belligerent and did not pass the filed sobriety test. The accused refused to take the preliminary alcohol screening (PAS) test.

(6) On June 3, 2002, at 0357, Officer No. 2 arrested the accused. After the accused was arrested, at the scene of the arrest, Officer No. 2 admonished the accused regarding mandatory testing and the accused refused to take a blood or a breath test. Officer No. 2 transported the accused to the Alameda County Jail at Santa Rita. At the jail, the accused was offered another chance to take a breath test and he again refused.

(7) Based on his observations; that the accused had the objective symptoms of intoxication, that he was the registered owner of the vehicle, that he was asleep in the drivers seat, that the keys were in the ignition and that the seat was adjusted to fit someone of his height and stature; Officer No. 2 arrested the accused for violating California Vehicle Code §23152(a).

(8) California Vehicle Code §§ 23152(a) and (b), state:

*"§**23152. DRIVING UNDER THE INFLUENCE***
(a) It is unlawful for any person while under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle."

(9) The accused engaged in conduct which, in a criminal context, violates the California Vehicle Code: by driving a motor vehicle while under the influence of alcoholic beverages which violates §23152(a); by refusing to be tested after his arrest which violated California Vehicle Code §23612; any reasonable police officer must know that such conduct violates the standards of the department and is cause for discipline or dismissal from employment ; such conduct violates Rule 9 of Department General Order 2.01, which states:

"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

SPECIFICATION NO. 2
Engaging in conduct which undermines the good order, efficiency and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department);

(10) Each allegation of Specification No. 1 above is incorporated by reference in this specification as though set forth in full.

(11) On June 3, 2002, from shortly after 0330 hours when he was awakened by Officer No. 2, the accused became unruly, uncooperative and threatening to the California Highway Patrol Officers. He resisted being handcuffed, refused to enter the patrol vehicle after he was finally handcuffed and refused to exit the patrol car when they arrived at the Alameda County Jail at Santa Rita.

(12) The accused berated the arresting officers using foul language and threatened them. The accused tried to use his position as a member of the San Francisco Police Department to persuade the officers that they should not arrest him.

(13) The accused engaged in conduct which, in a criminal context, violates the California Penal Code by resisting and impeding the California Highway Patrol Officers which would violate §148; any reasonable police officer must know that such conduct violates the standards of the department and is cause for discipline or dismissal from employment; such conduct violates Rule 9 of Department General Order 2.01, which states:

"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects

discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A. Section A 8.343 of the Charter of the City and County of San Francisco on March 3, 2004, where the matter was submitted to the Police Commission for decision; and

WHEREAS, based on Sergeant Kyle Ching's admissions, the Commission finds the allegations contained in Specifications No. 1 and No. 2 of the disciplinary charges as preferred by Former Chief of Police Alex Fagan against Sergeant Ching are sustained; and the Commission adopts the sustained specifications as its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

SPECIFICATION NO. 1 Sustained

SPECIFICATION NO. 2 Sustained

Sergeant Kyle K. Ching is ordered suspended for thirty-five (35) days imposed forthwith (thirty (30) days on Specification No. 1 and five (5) days on Specification No. 2); with twenty-five (25) days held in abeyance for two (2) years on the following conditions: (1) That Sergeant Ching not engage in any acts of misconduct; (2) That Sergeant Ching participate in and complete the alternative to punishment program set out in Department General Order 11.11, and (3) That Sergeant Ching write a letter of apology to the California Highway Patrol Officers which must be submitted to Commissioner Makras for approval before being sent.

FURTHER RESOLVED, that said thirty-five (35) days suspension imposed shall commence on Sunday, March 7, 2004, at 0001 hours, and terminate on Saturday, April 10, 2004, at 2400 hours.

If this decision is subject to review under Code of Civil Procedure section 1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, section 1094.6.

AYES: Commissioners Perry, Quaranta, Chan, Friday, Makras

Thereafter, the meeting was adjourned at 6:25 p.m.

_____
Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

ANGELO QUARANTA
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

VICTOR MAKRAS
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
WEDNESDAY, MARCH 10, 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

5
10/04
2

1. Pledge of Allegiance

2. Roll Call

3. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Michael D. Maxell, Support Services (File No. C04-032 JWA) (ACTION ITEM)

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4. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

5. Chief's Announcements and Review of Recent Department Events

6. OCC Director's Report re: Staffing and Budget and Summary of Recent Events

7. Public Comment
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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*There will be Public Comments on any item before or during discussion of each item.

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(Chapter 67 of the San Francisco Administrative Code)

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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For information about MUNI service call 923 6142

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Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

Minutes

MARCH 10, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Quaranta, Chan, Makras
ABSENT: Commissioner Friday

RESOLUTION NO. 21-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER MICHAEL D. MAXWELL, SUPPORT SERVICES (FILE NO. C04-032 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Michael D. Maxwell, Star No. 856, Support Services, was called it having been set for this date; and

WHEREAS, Commissioner Victor Makras is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Michael D. Maxwell; therefore be it

RESOLVED, that Commissioner Victor Makras is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Michael D. Maxwell, and is to be set at a later date.

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AYES: Commissioners Perry, Quaranta, Chan, Makras
ABSENT: Commissioner Friday

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry announced that there will be no Police Commission meeting on Wednesday, March 31st. Agreed to by the other Commissioners.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fong reported on the activities of the Department during the past week:

On Wednesday, after the Commission meeting, Captains Dillon and Ehrlich met at Northern Station with the community group "San Francisco Together." This meeting was sponsored by Supervisor Gonzales and the Fire Department.

Chief Fong and Captain Bruce, Bayview Station, met with the community group, "R.O.S.E.S." to discuss department plans in the community.

On Monday, Chief Fong attended the second meeting of the Mayor's homeless cabinet and on Friday, the Mayor's 10-year plan on homeless will meet for the first time.

Chief Fong, Deputy Suhr, and Commanders Shinn and Puccinelli met with the Housing Director and are studying a model of community policies in Los Angeles by the Los Angeles Sheriffs Department.

Chief Fong and Captain Corrales, Mission Station, met with an immigrant rights committee to discuss, among other things, the patriot act and how police responses.

Chief Fong, Captain O'Leary, Legal Unit, and the City Attorney met with the independent investigator to discuss their investigation of OCC's investigation of the November 2002 incident. Contractual issues were also discussed.

The Chief and Deputy Chief Suhr met with DPW to discuss quality of life issues in the downtown area.

Chief Fong spoke in front of the Board of Supervisors Rules Committee regarding implementing Proposition H and the Police Commission.

Mayor Newsom, along with Chief Fong, Deputy Chief Tabak, Supervisor Maxwell, and Reverend Brown held a press conference to promote monetary awards as incentives for witnesses to come forward and identify suspects in homicides.

Deputy Chief Suhr will chair a committee within the department to review the department's auto pursuit policy in light of the auto pursuit this week where an innocent woman was struck and killed by a suspect fleeing the police. The suspect has been arrested for homicide.

Deputy Chief Suhr addressed the Commission and reported on several issues:

Chief Suhr stated that the annual seniority sign up have been completed. This will ensure that officers are assigned to a time frame, which would allow better patrol in peak times.

He stated that the Tactical Company and the Solo Motorcycle Units are assigned to police channels where they can be readily assigned radio calls for service.

March 19th is the anniversary of the war with Iraq and demonstrations are planned and meetings are taking place with the district attorney to discuss possible arrests and housing of arrestees.

Chief Suhr reported on a homicide that occurred at Ocean Beach yesterday where over 150 people were present but no witnesses have come forward.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Ms. Jean Field, for Director Allen. Ms. Field stated that Director Allen will be taking a few weeks off. He is a proud father of a new baby daughter born this day.

PUBLIC COMMENT

Retired Captain Harlan Wilson addressed the Commission and stated that he has been hired by the patrol specials as executive administrator to act as a coordinator between the department and the patrol specials.

Thereafter, the meeting was adjourned at 6:00 p.m.

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

ANGELO QUARANTA
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

VICTOR MAKRAS
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
WEDNESDAY, MARCH 17, 2004
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

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Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

Closed Session (5:00 p.m.)

1. Convene in Open Session: Roll Call

2. Public Comments on all matters pertaining to the Closed Session

3. Vote on whether to hold Closed Session to confer with legal counsel. (San Francisco Administrative Code Section 67.10(d)) (ACTION ITEM)

4. Closed Session held pursuant to Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d)

   CONFERENCE WITH LEGAL COUNSEL – Existing Litigation

   a. Anthony Bell v. City and County of San Francisco, et al., San Francisco Superior Court No. 416036
   b. Laurie Peretz, individually, et al. v. City and County of San Francisco, San Francisco Superior Court No. 416-086

Open Session (5:30 p.m.)

5. Reconvene in Open Session: Pledge of Allegiance

6. Roll Call

7. Discussion and vote to elect whether to disclose any or all discussion held in Closed Session (San Francisco Administrative Code Section 67.12(a) (ACTION ITEM)

8. Approval of Minutes of the Meetings of March 3rd and 10, 2004 (ACTION ITEM)

9. Approval of Consent Calendar (ACTION ITEM)

10. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Phillip J. Gonzales, Taraval (File No. C04-018 EGF) (ACTION ITEM)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO
SAN FRANCISCO POLICE COMMISSION AGENDA
WEDNESDAY, MARCH 17, 2004
Closed Session 5:00 p.m.
Open Session 5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

CONNIE PERRY
PRESIDENT

ANGELO QUARANTA
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

VICTOR MAKRAS
Commissioner

LT. EDWARD GEETER
Secretary

11. Police Commission Announcements
    a. Motion of Calendaring of New Items (ACTION ITEM)

12. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

13. OCC Director's Report re: Staffing and Summary of Recent Events (DISCUSSION ONLY)

14. Public Comment
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

15. Disposition on Disciplinary Charges filed against Officer Darla J. McBride, Southern (File No. C03-309 JWA) (ACTION ITEM)

CONSENT CALENDAR

1. Recommendation of the City Attorney for settlement of the following claim:

    a. Anthony Bell v. City and County of San Francisco, et al., San Francisco Superior Court No. 416036
    b. Laurie Peretz, individually, et al. v. City and County of San Francisco, San Francisco Superior Court No. 416-086

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SAN FRANCISCO POLICE COMMISSION
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≡ Minutes

MARCH 17, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:05 p.m., in Closed Session.

PRESENT: Commissioners Perry, Friday, Makras
ABSENT: Commissioners Quaranta, Chan

PUBLIC COMMENTS ON ALL MATTERS PERTAINING TO THE CLOSED SESSION

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None

VOTE ON WHETHER TO HOLD CLOSED SESSION TO CONFER WITH LEGAL COUNSEL (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d)

Commissioner Friday made a motion to enter into a Closed Session. Second by Commission Makras. Approved 3-0.

CONFERENCE WITH LEGAL COUNSEL – Existing Litigation

a. Anthony Bell v. City and County of San Francisco, et al., San Francisco Superior Court No. 416036

b. Laurie Peretz, individually, et al. v. City and County of San Francisco, San Francisco Superior Court No. 416-086

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Friday, Makras
ABSENT: Commissioners Quaranta, Chan

RECONVENE TO OPEN SESSION

PRESENT: Commissioners Perry, Friday, Makras
ABSENT: Commissioners Quaranta, Chan

DISCUSSION AND VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

Commissioner Friday made a motion not to disclose action taken in Closed Session. Second by Commissioner Makras. Approved 3-0

APPROVAL OF MINUTES OF THE MEETINGS OF MARCH 3rd AND 10, 2004

Commissioner Makras made a motion to approve the Commission minutes of the meetings of March 3rd and 10, 2004. Second by Commissioner Friday. Minutes approved 3-0.

APPROVAL OF CONSENT CALENDAR

RESOLUTION NO. 22-04

ANTHONY BELL v. CITY AND COUNTY OF SAN FRANCISCO, et al.

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Anthony Bell v. City and County of San Francisco, et al.," in San Francisco Superior Court No. 416036, be, and the same is hereby approved.

Date of Incident: February 9, 2002

AYES: Commissioners Perry, Friday, Makras
ABSENT: Commissioners Quaranta, Chan

RESOLUTION NO. 23-04

LAURIE PERETZ, INDIVIDUALLY, et al. v. CITYAND COUNTY OF SAN FRANCISCO

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Laurie Peretz, individually, et al. v. City and County of San Francisco," in San Francisco Superior Court No. 416086, be, and the same is hereby approved.

Date of Incident: January 3, 2002

AYES: Commissioners Perry, Friday, Makras
ABSENT: Commissioners Quaranta, Chan

RESOLUTION NO. 24-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER PHILLIP J. GONZALES, TARAVAL (FILE NO. C04-018 EGF)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Phillip J. Gonzales, Star No. 2223, Taraval, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Phillip J. Gonzales; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Phillip J. Gonzales, and is to be set at a later date.

AYES: Commissioners Perry, Friday, Makras
ABSENT: Commissioner Quaranta, Chan

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Perry stated that there will be no Police Commission meeting on March 31, 2004 and that the district meeting scheduled for April 28th will take place at the Hall of Justice and not at Tenderloin Station.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fong introduced Deputy Chief Tabak, Investigation, who presented several Chief of Police Commendations to several citizens for jobs well done:

1. Ms. Arnetta Brown (who was not present). On January 15th, Ms. Brown was attacked while returning from the grocery store. The young assailant attempted to snatch her purse as she struggled to open the front door to her residence. Ms. Brown, 58 years old, fought back, overcame the would-be thief and administered a punishing beating to this young man. Ms. Brown then took time to counsel the suspect and advised him

to get a job and to stop using drugs so he wouldn't have to rob people.

2. Mr. David Wong (who was present) was robbed on January 26th seconds after using an ATM. A suspect who was physically much larger than Mr. Wong grabbed the money from his hand and threw him forcibly to the ground. Mr. Wong got to his feet, chased down the suspect, wrestled him to the ground, and held him there in a headlock until police arrived.

3. Ms. Pamela Burdak (not present) saw a male exiting her friend's premises carrying a black bag she recognized as hers. She followed and confronted the subject. The subject dropped the bag and fled with Ms. Burdak in hot pursuit. Three citizens saw the chase and heard the shouts for help. Mr. Nick Falus (not present), Mr. Rich Jensen and Mr. Ivan Velazquez joined the chase and wrestled the subject to the ground until the police arrived. They were presented with a Chief's Commendation for their willingness to get involved.

Deputy Chief Parra, Administration, addressed the Commission and stated that the Administration Bureau is working closely with the Patrol Division to provide supplies for the planned anti-war demonstrations this Friday and Saturday, March 19th and 20th.

Sergeant Joe Zamagni updated the Commission on the Department's pursuit driving policy and the training provided and how often the training is given and how they are reviewing the pursuit driving policy.

Chief Fong reported on the department's activities this week:

1. Thursday, she, along with the SRO Program and AAA, attended the Chief's Day at the movies where students from George Washington High School, Lincoln High School, Lowell High, and St. Peters viewed a movie and taken to a driving course in Mission Bay to show the students the importance of paying attention while driving.

2. Chief Fong and Captain Tacchini went to an elementary school where all the children were fingerprinted and given a dictionary in what is called the Dictionary Project.

3. Chief Fong met with Sgt. Dunnigan and Lt. Johnson and citizens from the Bayview and Ingleside Districts in the program called C.L.O.U.T. where citizens are trained to respond during certain types of disturbance to attempt to solve the problem. Training will begin in April.

4. On Monday, Chief Fong attended the Mayor's Public Safety Department Head Meeting. Chief Fong stated that it was very informative and allowed the Police Department to brief the other departments of the plans for the upcoming planned demonstrations.

OCC DIRECTOR'S REPORT RE: STAFFING AND SUMMARY OF RECENT EVENTS

Ms. Jean Field, for Director Allen, stated that OCC investigators attended training, provided by the Police Department, regarding the upcoming demonstrations. She stated that OCC will be monitoring the demos.

PUBLIC COMMENT

Mr. Mike Bochamp requested a copy of a police report he made in 1999. He stated the report he was given was not the report he requested.

Chief Fong advised Ms. Bochamp that she will have someone speak to him after the meeting.

HEARING OF OFFICER DARLA J. MCBRIDE, SOUTHERN (FILE NO. C03-309 JWA)

The hearing of Officer Darla J. McBride, Star No. 4156, Southern, was called it having been set for this date. Officer McBride was charged, in a properly verified complaint by Alex E. Fagan, former Chief of Police of the San Francisco Police Department, with violating the Rules and Procedures, as follows:

SPECIFICATION NO. 1

Engaging in conduct which undermines the good order, efficiency, and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 2

Carrying a handgun while intoxicated (violation of Rule I-A-3 of Department General Order 2.02 of the San Francisco Police Department).

Mr. Jerry W. Akins, Attorney at Law, appeared on behalf of the San Francisco Police Department.

Officer Darla J. McBride appeared in person and was represented by Mr. James Collins, Attorney at Law.

Officer Darla J. McBride admitted to the truth of the allegations contained in Specifications No. 1 and No. 2 and accepts responsibility for her actions.

The Police Commission unanimously accepted the plea of Officer McBride.

Based on Officer McBride's admission, the Commission requested a recommendation from Acting Chief of Police Heather Fong.

It is the recommendation of Acting Chief of Police Heather Fong that Officer McBride be suspended on Specification No. 1 for forty-five (45) days, with thirty (30) days imposed forthwith and fifteen (15) days held in abeyance for two (2) years; and, that Officer McBride be suspended for fifteen (15) days on Specification No. 2 with the fifteen (15) days held in abeyance for two (2) years. Officer McBride has requested, as part of this disposition, to participate in the department's alternative to punishment program set out in Department General Order 11.11 for the two (2) years that part of her punishment is held in abeyance. The thirty (30) days held in abeyance shall not be imposed on condition that Officer McBride not engage in any acts of misconduct for the two (2) years, and that she complete the terms of the discipline imposed in this matter.

The Commission took the matter under submission and the following resolution was adopted:

RESOLUTION NO. 25-04

DECISION – HEARING OF OFFICER DARLA J. MCBRIDE, SOUTHERN (FILE NO. C03-309 JWA)

WHEREAS, on December 29, 2003, Alex E. Fagan, former Chief of Police of the San Francisco Police Department, made and served charges against Officer Darla J. McBride, as follows:

SPECIFICATION NO. 1
Engaging in conduct which undermines the good order, efficiency, and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department);

(1) At all times herein mentioned Darla J. McBride, Star No. 4156, (referred to as "the accused") was a Q-2 police officer, employed by the San Francisco Police Department, assigned to the filed Operations Bureau, Southern Station.

(2) As a member of the department, the accused was and is responsible for knowing and obeying the rules, orders and procedures of the San Francisco Police Department.

(3) On November 12, 2002, at 0403 hours, a California Highway Patrol Officer (Officer #1) was driving in a marked Highway Patrol vehicle on Sir Francis Drake Boulevard eastbound toward its intersection with Interstate Highway 580 in Marin County near San Quentin Prison. Officer #1 observed a Red Chevrolet pickup driving ahead of the Highway Patrol vehicle going in the same direction. Officer #1 observed that the pickup was weaving and jerking back and forth across the lane. The pickup drove over the fog line on the right hand shoulder and then jerked back crossing the lane to the left hand side almost striking a guardrail. The pickup proceeded onto Highway 580 eastbound approaching the Richmond-San Rafael Bridge straddling the line between lane #1 and lane #2.

(4) Officer #1 activated her emergency lights to signal to the accused to pull over. The accused continued driving onto the approach to the Richmond-San Rafael Bridge. Officer #1 twice used the public address system to instruct the accused to pull over before she finally stopped in a construction zone.

(5) Officer #1 observed the objective signs of intoxication while talking to the accused and called for another unit to respond to do a Driving Under the Influence evaluation of the accused. Two Highway Patrol Officers responded to the scene (Officer #2 and Officer #3) and Officer #2 took over the investigation. Officer No. 2 administered a field sobriety test. The accused did not pass the field sobriety test.

(6) On November 12, 2002, at 0431 hours, Officer No. 2 arrested the accused for violating California Vehicle Code §23152(a). After the accused was arrested, at the scene of the arrest, Officer No. 2 admonished the accused regarding mandatory testing and the accused chose to take a breath test. Officer No. 2 transported the accused to the Marin County Jail for the test.

(7) At the jail, Officer #3 conducted the breath test using an Intoxilyzer 5000 machine. The results of the two Intoxilizer 5000 tests indicated that the accused's blood alcohol level at the time was 0.14 and 0.14 percent of blood alcohol by weight. Officer No. 2 arrested the accused for violating California Vehicle Code §23152(b).

(8) California Vehicle Code §§23152 (a) and (b), state:

"§23152. DRIVING UNDER THE INFLUENCE.

(a) *It is unlawful for any person while under the influence of any alcoholic beverage or drug, or under the combined influence of any alcoholic beverage and drug, to drive a vehicle.*
(b) *It is unlawful for any person who has 0.08 percent or more, by weight, of alcohol in his or her blood to drive a vehicle ..."*

(9) The accused engaged in conduct which, in a criminal context, violates the California Vehicle Code by driving a motor vehicle while under the influence of alcoholic beverages which violates §23152(a); and driving with more than .08 of blood alcohol by weight which violates §23152(b); any reasonable police officer must know that such conduct violates the standards of the department and is cause for discipline or dismissal from employment; such conduct violates Rule 9 of Department General Order 2.01, which states:

"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct by a member either within or without the State that tends to undermine the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

SPECIFICATION NO. 2
Carrying a handgun while intoxicated (violation of Rule I-A-3 of Department General Order 2.02 of the San Francisco Police Department).

(10) Each allegation of Specification No. 1 above is incorporated by reference in this specification as though set forth in full.

(11) The accused had a handgun with her in the cab of the pickup on November 12, 2002, at 0403 hours while she was driving the pickup with a blood alcohol level of more than 0.04 percent by weight. Department General Order 2.02 rule I-B-1 defines intoxication: "Shall mean a member is unable to perform his/her duties because of the consumption or ingestion of alcohol. A member shall be deemed intoxicated if the member has .04 percent or more by weight of alcohol in his/her blood."

(12) The accused by having a handgun in her possession while intoxicated, engaged in conduct which violates Rule I-A-3 of Department General Order 2.02, which states:

"OFF DUTY. A member, while off duty and carrying a weapon shall not consume alcoholic beverages to the extent that he/she becomes intoxicated."

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A, Section A 8.343 of the Charter of the City and County of San Francisco on March 17, 2004, where the matter was submitted to the Police Commission for decision; and

WHEREAS, based on Officer Darla J. McBride's admissions, the Commission finds the allegation contained in Specifications No. 1 and No. 2 of the disciplinary charges as preferred by former Chief of Police Alex E. Fagan against Officer McBride are sustained; and the Commission adopts the sustained specifications as its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

SPECIFICATION NO. 1: Sustained

SPECIFICATION NO. 2: Sustained

Officer McBride be suspended on Specification No. 1 for forty-five (45) days, with thirty (30) days imposed forthwith and fifteen (15) days held in abeyance for two (2) years; and, that Officer McBride be suspended for fifteen (15) days on Specification No. 2 with the fifteen (15) days held in abeyance for two (2) years. Officer McBride has requested, as part of this disposition, to participate in the department's alternative to punishment program set out in Department General Order 11.11 for the two (2) years that part of her punishment is held in abeyance. The thirty (30) days held in abeyance shall not be imposed on condition that Officer McBride not engage in any acts of misconduct for the two (2) years, and that she complete the terms of the discipline imposed in this matter.

FURTHER RESOLVED, that said thirty (30) days suspension imposed shall commence on Thursday, March 18, 2004, at 0001 hours, and terminate on Friday, April 16, 2004, at 2400 hours.

If this decision is subject to review under Code of Civil Procedure §1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, §1094.6.
Employee Relations Unit
Employees' Retirement System
March 18, 2004
Page 6

AYES: Commissioners Perry, Friday, Makras
ABSENT: Commissioner Quaranta, Chan

Thereafter, the meeting was adjourned at 6:20 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MARCH 24, 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance
2. Roll Call
3. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Michael Celis, Operation Center (File No. C03-119 JWA) (ACTION ITEM)
4. Assignment of Commissioner and Setting of Date for Taking of Evidence on the Appeal of the Chief's Suspension of Officer Jeffrey Aloise, Northern (File No. M-DRA D03-338) (ACTION ITEM)
5. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
6. Chief's Announcements and Review of Recent Department Events
7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
8. Public Comment
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)
9. Discussion and Action re: Motion for Dismissal of Disciplinary Charges filed against Officer Nicholas Bettencourt, Southern (File No. CCL 03-144), Officer Adam Choy, Central (File No. CCL 03-145), Sergeant Walter Cuddy, Bayview (File No. CCL 03-146), Sergeant Sherman Lee, Bayview (File No. CCL 03-147), and Officer Marcial Marquez, Southern (File No. CCL 03-148) under Government Code 3304(d) (ACTION ITEM)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics.

SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

MARCH 24, 2004 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:45 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Chan, Friday
ABSENT: Commissioners Quaranta, Makras

RESOLUTION NO. 26-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER MICHAEL CELIS, OPERATIONS CENTER (FILE NO. C03-119 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Michael Celis, Star No. 694, Operations Center, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Michael Celis; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Michael Celis, and is to be set at a later date.

AYES: Commissioners Perry, Chan, Friday
ABSENT: Commissioners Quaranta, Makras

RESOLUTION NO. 27-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON THE APPEAL OF THE CHIEF'S SUSPENSION OF OFFICER JEFFREY ALOISE, NORTHERN (FILE NO. M-DRA D03-338)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in the appeal of the Chief's suspension of Officer Jeffrey Aloise, Star No. 1303, Northern, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the appeal of the Chief's suspension of Officer Jeffrey Aloise; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence on the appeal of the Chief's suspension of Officer Jeffrey Aloise, and is to be set at a later date.

AYES: Commissioners Perry, Chan, Friday
ABSENT: Commissioners Quaranta, Makras

POLICE COMMISSION ANNOUNCEMENT

a. Motion of Calendaring of New Items

Commissioner Perry announced that there will be no Commission meeting next week.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

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Deputy Chief Suhr, Field Operations Bureau, updated the Commission on the two anti-war demonstrations which took place on Friday, March 19, 2004 and Saturday, March 20, 2004.

Chief Suhr stated that on Friday, March 19th, appxomately 1000 demonstrators marched from Justin Herman Plaza to Beale Street to the Bechtel Building. Approximately seven was arrested for blocking the entrance. The demonstrators then marched up Market Street to 47 Page Street. Approximately 11 people were arrested for blocking the street. The group then returned to Bechtel where approximately seven were arrested. A total of 24 arrests were made.

On Saturday, March 20th, 25,000 to 50,000 marched from Delores Park to Civic Center. Approximately 1000 then marched to Market Street where they attempted to rush the San Francisco Center. Approximately 81 were arrested. The Department are meeting with the District Attorney's office regarding those arrests.

Chief Fong updated the Commission on other activities that took place during the week:

Chief Fong and Captain O'Leary met with Mark Schlosberg, ACLU, to discuss the early intervention general order.

The Command Staff received training on the Sunshine Ordinance. Training was provided by the City Attorney's office.

Chief Fong, Deputy Chief Tabak, and Captain Tong attended a town hall meeting in District #1, Supervisor McGoldrick's district. Topic of discussion were public safety, parking and traffic, and pedestrian safety.

Chief Fong also met with the Homeless Cabinet at City Hall.

On Monday, the Chief had a meeting with the Civil Service Commission regarding the rules for the department. Chief Fong stated the department is getting closer in posting those rules.

Chief Fong also met with the committee on the Status of Women.

On Tuesday, Chief Fong met with the LA County Sheriffs and Housing Authority to discuss a model LA uses in community policing.

The Chief also met with the Muni Security Director to negotiate a new MOU with Muni.

Supervisor Ma held a press conference on the 10 Most Wanted Bulletins and discussed the possibilities of posting the bulletins in public places.

Chief Fong met with the Mayor's Budget Staff and is making progress. The Chief also met with the Homeless Coalition to discuss homeless issues and police response.

The Command Staff met to discuss overtime and overtime policy compliance.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, stated that he's meeting with MIS, along with MCD and DABOR, regarding a tracking system to be

able, at anytime, determine where cases are in the system at any given time.

PUBLIC COMMENT

Mr. Tim Silard spoke on the disciplinary charges filed against Officer Michael Celis and stated that Officer Celis should be terminated.

Ms. Malaika Parker, Bay Area Police Watch, asked that Officer Celis be taken off the street.

Gerie spoke on the issue of the alleged police misconduct that occurred on Martin Luther King's birthday in 2002.

Ms. Mesha Irizzarry spoke on the issue of law enforcement accountability.

Ms. Susan McAllister, mother of one of the victims of the alleged misconduct that occurred on MLK's birthday, asked that the Commission not dismiss charges on the officers involved.

Rita, October 22 Coalition, spoke in regards to the MLK incident.

Ms. Tammy Callen spoke against police brutality.

Mr. Charles Pits spoke against police brutality.

DISCUSSION AND ACTION RE: MOTION FOR DISMISSAL OF DISCIPLINARY CHARGES FILED AGAINST OFFICER NICHOLAS BETTENCOURT, SOUTHERN (FILE NO. CCL 03-144), OFFICER ADAM CHOY, CENTRAL (FILE NO. CCL 03-145), SERGEANT WALTER CUDDY, BAYVIEW (FILE NO. CCL 03-146), SERGEANT SHERMAN LEE, BAYVIEW (FILE NO. CCL 03-147), AND OFFICER MARCIAL MARQUEZ, SOUTHERN (FILE NO. CCL 03-148) UNDER GOVERNMENT CODE SECTION 3304(d)

Attorneys Robert Moore and James Collins made oral arguments regarding the Dismissal Motion.

Attorney Jean Field for the Office of Citizen Complaints made an oral argument against the Dismissal Motion.

After deliberations, Commissioner Perry made the following statement:

"A majority of the Commission could not agree on the disposition. Commissioners Chan and Perry were of the opinion that the motion should be denied. Commissioner Friday was of the opinion that the motion should be granted. Accordingly, the Commission did not dismiss these charges."

AYES:	Commissioners Perry, Chan
NAYS:	Commissioner Friday
ABSENT:	Commissioners Quaranta, Makras

Thereafter, the meeting was adjourned at 7:25 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

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Vice President

SIDNEY CHAN
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Commissioner

VICTOR MAKRAS
Commissioner

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Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

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cancelled

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

= cancelled

There will be no Police Commission Meeting on **Wednesday, March 31, 2004**. The next Police Commission Meeting will be on **Wednesday, April 7, 2004,** at the Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, Room 551.

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The Police Commission

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Commissioner

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Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
WEDNESDAY, APRIL 7, 2004
5:30 p.m.

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Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance

2. Roll Call

3. Approval of Minutes of the Meeting of March 17, 2004 (ACTION ITEM)

4. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Robert M. Ramos, Richmond (File No. C04-026 JWA) (ACTION ITEM)

5. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Gary W. Hazelhofer, Mission (File No. C03-118 JWA) (ACTION ITEM)

6. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

7. Chief's Announcements and Review of Recent Department Events (DISCUSSION ONLY)

8. OCC Director's Report re: Staffing and Summary of Recent Events (DISCUSSION ONLY)

9. Public Comment
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
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Commissioner

VICTOR MAKRAS
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LT. EDWARD GEETER
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SAN FRANCISCO POLICE COMMISSION AGENDA
WEDNESDAY, APRIL 7, 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

10. Disposition on Disciplinary Charges filed against Sergeant Damon Z. Keeve, Support Services (File No. C01-175 JWA) (ACTION ITEM)

11. Disposition on Disciplinary Charges filed against Sergeant Thomas A. Haymond, Central (File No. C02-364 JWA) (ACTION ITEM)

12. Disposition on Disciplinary Charges filed against Lieutenant Daniel Curiel, Special Operation (File No. C03-308-JWA) (ACTION ITEM)

13. Discussion and possible action re: Charged Officers' Motion for Dismissal of Disciplinary Charges filed against Officer Nicholas Bettencourt, Southern (File No. CCL 03-144), Officer Adam Choy, Central (File No. CCL 03-145), Sergeant Walter Cuddy, Bayview (File No. CCL 03-146), Sergeant Sherman Lee, Bayview (File No. CCL 03-147), and Officer Marcial Marquez, Southern (File No. CCL 03-148) under California Government Code section 3304(d) (ACTION ITEM)

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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For information about the meeting call 553 1667(v) or 553 9194 (tty)

San Francisco
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= Minutes

APRIL 7, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:30 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Quaranta, Chan, Friday, Makras

APPROVAL OF MINUTES OF THE MEETING OF MARCH 17, 2004

Commissioner Quaranta made a motion to approve the minutes of the meeting of March 17, 2004. Second by Commissioner Friday. Minutes approved 5-0.

RESOLUTION NO. 29-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER ROBERT M. RAMOS, RICHMOND (FILE NO. C04-026 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Robert M. Ramos, Star No. 1226, Richmond, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Robert M. Ramos; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Robert M. Ramos, and is to be set at a later date.

AYES: Commissioners Perry, Quaranta, Chan, Friday, Makras

RESOLUTION NO. 29-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER ROBERT M. RAMOS, RICHMOND (FILE NO. C04-026 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Robert M. Ramos, Star No. 1226, Richmond, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Robert M. Ramos; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Robert M. Ramos, and is to be set at a later date.

AYES: Commissioners Perry, Quaranta, Chan, Friday, Makras

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

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Commissioners Perry and Quaranta wished everyone a Happy Easter.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Acting Chief Fong reported on activities within the Department within the past two weeks.

Chief Fong stated she met with ministers to discuss ways of perhaps reaching a truce with the community to stop the violence in the south east area of the city.

The Chief and Commander Craig met with the NAACP to discuss ways of stopping the violence.

The Chief also stated that the department have been working closely with other agencies on homeland security issues. The Chief also met with an exchange program from the Philippines National Police College to discuss and exchange ideas.

The Chief stated that the Department will participate in the Special Olympics this summer.

Chief Fong, along with Deputy Chief Suhr, Commander Puccinelli, and Captain Corrales, attended a meeting in the Mission Police District to discuss drug dealing in the area.

The Chief also met with the Clerk of the Board of Supervisors to coordinate training for department members so that the department is keep aware of the issue of the city.

The Chief also attended a town hall meeting sponsored by Supervisor Maxwell. The Chief also met with the school board to discuss the MOU of police assigned to schools. A draft should be ready soon.

The Chief also met with the Budget Committee to discuss what can be cut to balance the budget.

Officer Mike Etcheverry, Airport Bureau, reported on Airport Unit AIRCATs – Allied, Interagency, Response Cargo, Apprehension Team. The function of this team is to detect, arrest, and prosecute persons who commit cargo thefts. They work closely with the San Mateo Sheriffs office, South San Francisco Police, and FBI. The AIRCATS Unit recently recovered stolen merchandise worth over $900,000 and arrested nine suspects.

OCC DIRECTOR'S REPORT RE: STAFFING AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, reported that his office met with the new leadership of the POA and discussed different issues. He also met with Lt. Pardini regarding non-English speaking persons and stated that in his office, they can translate Russia, Tagalog, Cantonese, Mandarin, French, Spanish, and English.

PUBLIC COMMENT

Ms. Malaika Parker, Bay Area Police Watch, asked the Commission not to dismiss charges against the officers involved in the MLK birthday incident in 2002.

Ms. Anderson, Books not Bars, asked the Commission not to dismiss charges against the officers.

Unidentified, Bay Area Police Watch, asked the Commission not to dismiss charges.

Ms. Clarisa Dalfer asked the Commission not to dismiss charges.

Mr. Mike Molina, Ella Baker Center, asked the Commission not to dismiss charges.

Ms. Sonia Copper, Idress Stelli Foundation, asked the Commission not to dismiss the charges.

Unidentified asked the Commission not to dismiss the charges.

Ms. Jessie Hernandez, Books not Bars, asked not to dismiss the charges.

Mr. Francisco Decosto asked not to dismiss the charges.

Mr. Shaki Almina asked not to dismiss the charges.

Mr. Andrew Hogan spoke on the issue of police misconduct and asked the Commission not to dismiss the charges.

Mr. Barry Torintino, cab driver, asked the Commission to have the department look into two areas: Barricades placed in the North Beach area are preventing taxis into certain areas and is hurting business. Also, cabs at the airport.

Unidentified asked the Commission not to dismiss charges against the officers.

RESOLUTION NO. 31-04

DECISION – HEARING OF SERGEANT DAMON Z. KEEVE, SUPPORT SERVICES (FILE NO. C01-175 JWA)

WHEREAS, on May 8, 2002, Fred H. Lau, former Chief of Police of the San Francisco Police Department, made and served charges against Sergeant Damon Z. Keeve, as follows:

SPECIFICATION NO. 1
Engaging in conduct which subverts the order, efficiency, and discipline of the Department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

(1) At all times herein mentioned, Damon Z. Keeve, Star Number 944, (hereinafter referred to as "the accused") was and is a police officer employed by the San Francisco Police Department, holding the rank of Sergeant and assigned to the Bayview District, but is now assigned to the Support Services Division.

(2) As a police officer, the accused was and is responsible for knowing and obeying the rules, orders, and procedures of the San Francisco Police Department.

(3) On February 10, 2002, the accused owned a 1989 Nissan pick-up truck which was first registered to him on November 6, 1997. Thereafter, registration fees were paid for the period from June 30, 1998 through June 30, 1999, and then not again until March 8, 2002, after the commencement of the investigation of this matter.

(4) On February 10, 2002, the accused loaned his 1989 Nissan pick-up truck to another man (the driver) to haul refuse to the dump. On February 10, 2002, at 1430 hours, the driver was stopped in Brisbane, California for committing a traffic violation and was cited for making an illegal U-turn in front of a fire station and not having proof of financial responsibility in his possession. The driver signed the citation and proceeded on his way.

(5) On February 10, 2002, the accused was the registered owner of the 1989 Nissan pickup truck which was registered to him at his home

residence address. He was also the primary driver of the vehicle, using it to commute to work.

(6) California Vehicle Code §4000.(a)(1) provides that, "No person shall drive, move, leave standing upon a highway ... any motor vehicle ... unless it is registered and the appropriate fees have been paid under this code ..."

(7) The accused, by driving his 1989 Nissan pickup truck without keeping the registration current and paying the annual registration fees violated California Vehicle Code §4000(a)(1); any reasonable police officer must know that such conduct brings discredit on the department and undermines the good order, efficiency and discipline of the department and is cause for discipline or dismissal from employment; therefore, such conduct violates Rule 9 of Department General Order 2.01, which states:

"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to undermine the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

SPECIFICATION NO. 2

Engaging in conduct which subverts the order, efficiency, and discipline of the department, and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

(8) Paragraphs 1 through 5 from Specification No. 1 above are incorporated herein by reference and realleged as though set forth in full.

(9) On February 10, 2002, after the driver was cited by the Brisbane Police Officer, the driver contacted the accused and informed the accused that he, the driver, had been cited by the Brisbane Police Department and requested assistance.

(10) On February 10, 2002, at approximately 1530 hours, the Brisbane Police Officer who had issued the ticket to the driver received a message from the San Mateo County emergency dispatch center which directed him to call "Sgt. Keeve SFPD" at a cellular telephone number.

(11) The Brisbane Police Officer called the accused immediately. In the ensuing telephone conversation, the accused said he wanted to help the driver out of trouble and asked what it would take to "get rid of this ticket?" The accused told the Brisbane Police Officer not to turn the ticket in and then offered him SWAT team tee shirts, tickets to girlie shows, and alcohol.

(12) The Brisbane Police Officer terminated the telephone conversation saying that he could not get rid of the ticket, that the accused would have to call the Chief of the Brisbane Police Department if he wanted to pursue the matter and gave the Chief's telephone number to the accused.

(13) About five minutes later, at about 1535 hours, the accused telephoned the Brisbane Chief of Police. He left a message on the Chief's answering machine identifying himself, stating that he had tried to bribe

a Brisbane Police Officer who "wrote up a friend of mine," identifying the friend by name and describing the citation by citation number. He stated he was hoping to keep "this lad out of trouble, I was hoping we could negotiate on the ticket a little professional courtesy." The accused pointed out that he had tried to bribe the officer with SWAT tee shirts and free passes to a gentlemen's club on Broadway in North Beach. The accused left his home telephone number and his cellular telephone number and asked the Chief to call him to "work something out." The Brisbane Police Chief did not call the accused, but forwarded the information about this call to the Chief of Police of the San Francisco Police Department.

(14) California Vehicle Code §40500(d) provides that:

(d) Once the arresting officer has prepared the written notice to appear, and has delivered a copy to the arrested person, the officer shall deliver the remaining original and all copies of the notice to appear as provided by Section 40506.

Any person, including the arresting officer and any member of the officer's department or agency, or any peace officer, who alters, conceals, modifies, nullifies, or destroys or causes to be altered, concealed, modified, nullified or destroyed, the face side of the remaining or any copy of a citation that was retained by the officer, for any reason, before it is filed with the magistrate or with a person authorized by the magistrate or judge to receive a deposit of bail is guilty of a misdemeanor. . . .

Under no circumstances shall a personal relationship with any officer, public official or law enforcement agency be grounds for dismissal." [emphasis added]

(15) The accused, by improperly attempting to influence a Brisbane Police Officer and the Brisbane Police Chief to rescind a traffic ticket which had been issued violated California Vehicle Code §40500(d); any reasonable police officer must know that such conduct brings discredit on the department and undermines the good order, efficiency and discipline of the department and is cause for discipline of dismissal from employment; therefore, such conduct violates Rule 9 of Department General Order 2.01, which states:

"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct by an officer either within or without the State that tends to undermine the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A, Section A 8.343 of the Charter of the City and County of San Francisco on April 7, 2004, where the matter was submitted to the Police Commission for decision; and

WHEREAS, based on Sergeant Damon Z. Keeve's admissions, the Commission finds the allegation contained in Specifications No. 1 and No. 2 of the disciplinary charges as preferred by former Chief of Police Fred H. Lau against Sergeant Damon Z. Keeve are sustained; and the Commission adopts the sustained specifications as its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

SPECIFICATION NO. 1: Sustained

SPECIFICATION NO. 2: Sustained

On Specification No. 1, Sergeant Damon Z. Keeve shall be reprimanded and on Specification No. 2, Sergeant Damon Z. Keeve is ordered suspended for ninety (90) days, with forty-five (45) days held in abeyance for two (2) years on condition that Sergeant Keeve be suspended for forty-five (45) days forthwith, and that he not receive any sustained complaints of misconduct for the two (2) years.

FURTHER RESOLVED, that said forty-five (45) days suspension imposed shall commence on Wednesday, April 7, 2004, at 0001 hours, and terminate on Friday, May 21, 2004, at 2400 hours.

If this decision is subject to review under Code of Civil Procedure §1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure , §1094.6.

AYES: Commissioners Perry, Quaranta, Chan, Friday, Makras

HEARING OF SERGEANT THOMAS A. HAYMOND, CENTRAL FILE NO. C02-364 JWF)

The hearing of Sergeant Thomas A. Haymond, Star No. 366, Central, was called it having been set for this date. Sergeant Haymond was charged, in a properly verified complaint by Prentice E. Sanders, Former Chief of Police of San Francisco Police Department, with violating the Rules and Procedures as follows:

SPECIFICATION NO. 1

Unnecessary Force (Striking arrestee with flashlight in violation of Department General Order 5.01).

Ms. Jean Field, Attorney at Law, appeared on behalf of the San Francisco Police Department and the Office of Citizen Complaints.

Sergeant Thomas Haymond appeared in person and was represented by Mr. James Collins, Attorney at Law.

Ms. Field entered a motion to amend the charges filed against Sergeant Thomas Haymond.

The Commission approved the motion to amend the charges.

Sergeant Thomas Haymond admitted to the truth of the allegations contained in Specification No. 1 of the Amended Charges and accepts responsibility for his actions.

The Police Commission unanimously accepted the plea of Sergeant Haymond.

Based on Sergeant Haymond's admission, the Commission requested a

recommendation from Acting Chief of Police Heather Fong.

It is the recommendation of Acting Chief of Police Heather Fong that Sergeant Thomas A. Haymond be suspended on Specification No.1 for ten (10) days.

The Commission took the matter under submission and the following resolution was adopted:

RESOLUTION NO. 32-04

DECISION - HEARING OF SERGEANT THOMAS A. HAYMOND, CENTRAL (FILE NO. C02-364 JWF)

WHEREAS, on October 24, 2002, Prentice E. Sanders, Former Chief of Police of the San Francisco Police Department, made and served charges against Sergeant Thomas A. Haymond.

WHEREAS, on April 7, 2004, the Department moved to amend the charges, as follows:

Amended Charges:

SPECIFICATION NO. 1:
Unnecessary Force (Striking Arrestee with Flashlight in Violation of Department General Order 5.01).

(1) At all times herein mentioned, Sergeant Thomas A. Haymond, Star NO. 366 (hereinafter, "Accused Officer"), was and is a sworn peace officer employed by the San Francisco Police Department (hereinafter, "Department").

(2) As a sworn peace officer in the Department's employ, the Accused Officer was and is responsible for knowing and obeying the rules, orders, and procedures of the Department.

(3) On or about October 19, 2001, at 1:15 a.m., the Accused Officer was on routine patrol driving a marked Department vehicle in the vicinity of Bernard and Hyde Streets, when he observed an Asian female adult (hereinafter, "Reporting Party") on her hands and knees in the roadway.

(4) Reporting Party informed Accused Officer that she had just been robbed by the driver of a red Mitsubishi pickup truck (hereinafter, "Pickup Truck").

(5) The Accused Officer broadcast the suspect's description and pursued the pickup truck, as did other responding units.

(6) The Accused Officer attempted unsuccessfully to stop the pickup truck at Post and Gough Streets; other units continued the pursuit of the pickup truck eastbound on Post.

(7) After the unsuccessful attempt to stop the pickup truck, the Accused Officer resumed pursuit, now in a secondary role behind other responding units.

(8) In the vicinity of Olive and Larkin Streets, the Complainant emerged from the driver's side of the pickup truck and ran northbound on Larkin to O'Farrell Street, still pursued by a number of patrol vehicles.

(9) Still in his patrol vehicle, the Accused Officer also followed the

Complainant onto O'Farrell Street.

(10) The primary unit in the pursuit stopped some distance ahead of the Complainant's location, and an officer (Responding Officer 1) emerged to await the Complainant on foot.

(11) Responding Officer 1 tackled the Complainant, taking him to the ground, where four other Department officers (Responding Officers 2 through 5) assisted Responding Officer 1 in taking the Complainant into custody.

(12) The Accused Officer left his patrol vehicle to join Responding Officers 1 through 5 on foot.

(13) Complainant was on the ground resisting attempts by Responding Officers 1 through 5 to handcuff him, when Accused Officer placed his knee and body weight against the back of the Complainant's neck.

(14) While the Accused Officer was positioned on and above the Complainant in the manner described in Paragraph (13), the Accused Officer's flashlight struck the top of the Complainant's head.

(15) The Accused Officer's flashlight produced a gaping linear laceration approximately four centimeters long, and a skin abrasion approximately four and a half centimeters long and one centimeter wide, over the vertex of Complainant's scalp.

(16) The Complainant was treated for the abraded laceration described in Paragraph (15) in the emergency room of San Francisco General Hospital. Because of its tendency to gape, the laceration required suturing.

(17) By injuring the Complainant's head with his flashlight, the Accused Officer violated Rule 9 of Department General Order 2.01, which states:

"MISCONDUCT. Any breach of peace, neglect of duty, misconduct or any conduct by an officer within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflect discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, although not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A. Section A 8.343 of the Charter of the City and County of San Francisco on April 7, 2004, where the matter was submitted to the Police Commission for decision; and

WHEREAS, based on Sergeant Thomas Haymond's admissions, the Commission finds the allegations contained in Specification No. 1 of the amended disciplinary charges as preferred by Acting Chief of Police Heather Fong against Sergeant Haymond are sustained; and the Commission adopts the sustained specification as its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

SPECIFICATION NO. 1 Sustained

Sergeant Thomas A. Haymond is ordered suspended for ten (10) days, imposed forthwith.

FURTHER RESOLVED, that said ten (10) days suspension imposed shall commence on Thursday, April 8, 2004, at 0001 hours, and terminate on Saturday, April 17, 2004, at 2400 hours.

If this decision is subject to review under Code of Civil Procedure section 1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure, section 1094.6.

AYES: Commissioners Perry, Quaranta, Chan, Friday, Makras

DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST LIEUTENANT DANIEL CURIEL, SPECIAL OPERATION (FILE NO. C03-308 JWA)

Mr. Kevin Holl, Attorney at Law, was present on behalf of the San Francisco Police Department.

Lieutenant Dan Curiel was present and represented himself.

Lieutenant Curiel admitted to the truth of the allegations.

Commissioner Friday made a motion to accept the recommended penalty. Second by Commissioner Chan. The Commission did not get a unanimous vote to accept the recommended penalty.

Commissioner Friday requested a roll call vote.

Commissioner Perry - No
Commissioner Quaranta - No
Commissioner Chan - Yes
Commissioner Friday - Yes.
Commissioner Makras - No.

The motion to accept the recommended penalty failed by a 3 to 2 vote.

Lieutenant Curiel withdrew his plea.

DISCUSSION AND POSSIBLE ACTION RE: CHARGED OFFICERS MOTION FOR DISMISSAL OF DISCIPLINARY CHARGES FILED AGAINST OFFICER NICHOLAS BETTENCOURT, SOUTHERN (FILE NO. CCL 03-144), OFFICER ADAM CHOY, CENTRAL (FILE NO. CCL 03-145), SERGEANT WALTER CUDDY, BAYVIEW (FILE NO. CCL 03-146), SERGEANT SHERMAN LEE, BAYVIEW (FILE NO. CCL 03-147), AND OFFICER MARCIAL MARQUEZ, SOUTHERN (FILE NO. CCL 03-148) UNDER GOVERNMENT CODE SECTION 3304(d)

Appearances:

Jean Field for the Department.
James Collins for Officer Sherman Lee and sitting in for Robert Moore who is representing Officer Nicholas Bettencourt.
Mark Nicco representing Officer Adam Choy
Freya Horne representing Officer Walter Cuddy
Margaret Pendergast sitting in for Peter Furst who is representing Officer Marcial Marquez.

Mr. Collins addressed the Commission. Mr. Collins stated that he has two things he wants to point out. "First of all, again, in public comment tonight, one of the things I think that we need to really address because a person identified herself as a lawyer and said this. I think it's somewhat offensive to consider the statute of limitations to be a loophole for a technicality. It is one of the basis of our whole system of what everybody seems to want here which is called justice. I would just point that out. The second thing is I would ask Commissioners Quaranta, Commissioner Makras, if you've read the argument, that I think if you think about what is in play here and do what is right as opposed to the pressure of people but what is the legal right thing to do, you will join with Commissioner Friday and rule our way. And, again, I would submit what we said before." Attorneys Nicco, Horne, and Pendergast all stated "as submitted."

Ms. Jean Field stated that the statute of limitation has not run out because there are two civil suits currently proceeding.

The Commission went into deliberations.

Upon the Commission's return, Commissioner Perry announced the following: "The Commission voted 3 to 2 to deny the motion to dismiss."

Commissioner Friday asked for a roll call vote.

Commissioner Perry - No
Commissioner Quaranta - Yes
Commissioner Chan - No
Commissioner Friday - Yes
Commissioner Makras - No

The motion for dismissal was denied by a 3 to 2 vote.

RESOLUTION NO. 28-04

DENIAL OF MOTION FOR DISMISSAL OF DISCIPLINARY CHARGES FILED AGAINST OFFICER NICHOLAS BETTENCOURT, SOUTHERN (FILE NO. CCL 03-144), OFFICER ADAM CHOY, CENTRAL (FILE NO. CCL 03-145), SERGEANT WALTER CUDDY, BAYVIEW (FILE NO. CCL 03-146), SERGEANT SHERMAN LEE, BAYVIEW (FILE NO. CCL 03-147), AND OFFICER MARCIAL MARQUEZ, SOUTHERN (FILE NO. CCL 03-148) UNDER CALIFORNIA GOVERNMENT CODE SECTION 3304(d)

RESOLVED, that the Police Commission denied motion for dismissal of disciplinary charges filed against Officer Nicholas Bettencourt, Southern (File No. CCL 03-144), Officer Adam Choy, Central (File No. CCL 03-145), Sergeant Walter Cuddy, Bayview (File No. CCL 03-146), Sergeant Sherman Lee, Bayview (File No. CCL 03-147), and Officer Marcial Marquez, Southern (File No. CCL 03-148) under California Government Code Section 3304(d).

AYES: Commissioners Perry, Chan, Makras
NAYS: Commissioners Quaranta, Friday

Thereafter, the meeting was adjourned at 7:00 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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CONNIE PERRY
PRESIDENT

ANGELO QUARANTA
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

VICTOR MAKRAS
Commissioner

LT. EDWARD ORETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, APRIL 14, 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Meeting of March 24, 2004 (ACTION ITEM)
4. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Bernard J. Sullivan, Traffic (File No. C04-045 JWA) (ACTION ITEM)
5. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
6. Chief's Announcements and Review of Recent Department Events
7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
8. Disposition on Disciplinary Charges filed against Lieutenant Daniel Curiel, Special Operation (File No. C03-308 JWA) (ACTION ITEM)
9. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

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(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102, telephone (415) 581-2300; fax (415) 581-2317, web site www.sfgov.org/ethics

SAN FRANCISCO POLICE COMMISSION
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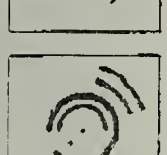

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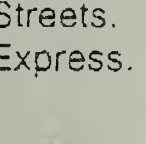
The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142



Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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WAYNE FRIDAY
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VICTOR MAKRAS
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LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA
(AMENDED)

REGULAR MEETING
WEDNESDAY, APRIL 14, 2004
5:00 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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amended

1. Roll Call.

2. Public Comment on all matters pertaining to the Closed Session.

3. Closed Session pursuant to Government Code Section 54957 and San Francisco Administrative Code Section 67.10(b).

   PUBLIC EMPLOYEE APPOINTMENT/HIRING: CHIEF OF POLICE (ACTION ITEM)

   Discussion and possible action to nominate a candidate(s) for appointment by the Mayor to the position of Chief of Police

4. Reconvene to Open Session. Pledge of Allegiance

5. Roll Call

6. Vote to elect whether to disclose any or all discussion held in Closed Session (San Francisco Administrative Code Section 67.12(a)). (ACTION ITEM)

7. Approval of Minutes for the Meeting of March 24, 2004 (ACTION ITEM)

8. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Bernard J. Sullivan, Traffic (File No. C04-045 JWA) (ACTION ITEM)

9. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

10. Chief's Announcements and Review of Recent Department Events

11. OCC Director's Report re: Staffing and Budget and Summary of Recent Events

12. Disposition on Disciplinary Charges filed against Lieutenant Daniel Curiel, Special Operation (File No. C03-308 JWA) (ACTION ITEM)

The Police Commission

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SAN FRANCISCO POLICE COMMISSION AGENDA (AMENDED)

REGULAR MEETING
WEDNESDAY, APRIL 14, 2004
5:00 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

13. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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= Minutes

APRIL 14, 2004 **CLOSED MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 505-2, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:00 p.m., in a Closed Session.

PRESENT: Commissioners Perry, Quaranta, Chan, Friday, Makras

Closed Session pursuant to Government Code Section 54957 and San Francisco Administrative Code Section 67.10(b).

PUBLIC EMPLOYEE APPOINTMENT/HIRING: Chief of Police

Discussion and possible action to nominate a candidate(s) for appointment by the Mayor to the position of Chief of Police

RESOLUTION NO. 33-04

APPOINTMENT OF HEATHER FONG AS CHIEF OF POLICE

RESOLVED, that the Police Commission unanimously appoints Heather Fong as the Chief of Police of the San Francisco Police Department.

AYES: Commissioners Perry, Quaranta, Chan, Friday, Makras

APRIL 14, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:30 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Quaranta, Chan, Friday, Makras

Commissioner Perry asked that all in attendance stand for a moment of silence in honor of Officer Isaac Espinoza.

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

Commissioner Friday made a motion to disclose the discussion held in Closed Session. Second by Commissioner Quaranta. Approved 5-0.

Commissioner Perry announced the following:

"During the Closed Session, the San Francisco Police Commission has voted unanimously to confirm the nomination of Heather Fong as Chief of Police of the City and County of San Francisco."

Chief Fong addressed the Commission and stated:

"I am extremely grateful and humbled to be selected as the Chief of Police. I can think of no greater honor than that which you have given me this evening, leading the men and women of the San Francisco Police Department. This is a tremendous expression of your trust and confidence in me and the Department. I accept this role with resolve to do my very best for the department and for this City.

Working with the command staff and the men and women of the department, and the members of the community, I will do everything in my power to move this department forward. I pledge to the Commission and to the people of this great city that you will not be disappointed.

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I believe it is important, however, for us to reflect on the events of last Saturday night and the tragedy that took place. A tragedy that resulted in Officer Isaac Espinoza being taken from us.

My appointment as Chief of Police comes at a time when we are grieving over his death. The Police Department and the Espinoza Family and many many others are in a state of mourning over the lost of one of our finest officers. Our sense of lost is profound. It is my earnest hope and intentions that the violence that has robbed us of Isaac and far too many others will be stopped once and for all.

Thank you for this great honor, but for now though, I believe that what is important is for us to remember Isaac and his family through thoughts and prayers."

APPROVAL OF MINUTES FOR THE MEETING OF MARCH 24, 2004

Commissioner Chan made a motion for approval of the Commission minutes for the meeting of March 24, 2004. Second by Commissioner Quaranta. Approved 5-0.

RESOLUTION NO. 34-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR TAKING OF EVIDENCE ON DISCIPLINARY CHARGES FILED AGAINST OFFICER BERNARD J. SULLIVAN, TRAFFIC (FILE NO. C04-045 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date to conduct taking of evidence in disciplinary charges filed against Officer Bernard J. Sullivan , Star No. 1173, Traffic, was called it having been set for this date; and

WHEREAS, Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Bernard J. Sullivan; therefore be it

RESOLVED, that Commissioner Connie Perry is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Bernard J. Sullivan, and is to be set at a later date.

AYES: Commissioners Perry, Quaranta, Chan, Friday, Makras

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

None.

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fong reported on several points that the department have been involved in during the week.

Deputy Chief Tabak, Investigations Bureau, updated the Commission on the Homicide Unit stating that three more investigators have been assigned to the unit. Chief Tabak also informed the Commission of training seminars with the district attorney's office to help investigators prepare for court cases.

Chief Tabak updated the Commission on the arrest of the suspect in the killing of Officer Espinoza.

Chief Tabak also updated the Commission on the arrest of a sexual

pervert who thought he had made contact with a 13-year old girl. The suspect flew to San Francisco to make contact.

Commissioner Perry recognized Supervisor Sandoval. Supervisor Sandoval represents District 11 and asked the Commission to look at the possibility of adding additional officers to Taraval Police Station.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, addressed the Commission and congratulated Chief Fong for being nominated as Chief of Police.

DISPOSITION ON DISCIPLINARY CHARGES FILED AGAINST LIEUTENANT DANIEL CURIEL, SPECIAL OPERATION

Attorney Geoff Gordon-Creed appeared on behalf of the San Francisco Police Department.

Lieutenant Daniel M. Curiel was present and chose not to have legal counsel present.

Attorney Gordon-Creed read the four specifications contained in the disciplinary charges against Lieutenant Curiel.

Lieutenant Curiel admitted to the truth of the allegations and accepted responsibility for his actions.

Commissioner Friday made a motion to accept the Chief's recommendation for discipline. Second by Commissioner Chan. The motion was approved by a 4-1 vote.

Commissioner Friday asked for a roll call vote.

The motion was to accept the Chief's recommended plea of proposed discipline.

Commissioner Perry - Yes
Commissioner Quaranta - Yes
Commissioner Chan - Yes
Commissioner Friday - Yes
Commissioner Makras - No

Commissioner Perry then read the following punishment:

The Commission accepts the Acting Chief's recommendation for discipline in this matter and imposes the following discipline:

1. Member Curiel is terminated from the Department, effective immediately. The termination is to be held in abeyance for a period of three (3) years.

2. Member Curiel is suspended without pay for 120 days effective immediately, with each day of the suspension served.

3. Member Curiel will undergo EEO training as specified by the Department.

4. Member Curiel will forthwith write letters of apology to the Department and to the female lieutenant who was the subject of the slurs.

5. Member Curiel be released from his probationary Q60 appointment as a

lieutenant effective immediately and Curiel's rank revert to the rank of sergeant.

Commissioner Makras wanted to address the issue, stating in part:

"I would recommend to my colleagues to not accept the plea. If you read the allegations, it's hard to believe that the officer just doesn't quit on his own. It says in the initial documents, the accused, by constantly using inappropriate language in respect to women members, created a hostile work environment to the lieutenant and sergeant and other officers. That's pretty bad. And worse, the sergeant that reported the remarks was fearful of retaliation because the accused boasted that he could interfere with the careers of the other officers. What's so outrageous about the conduct is that it took place for the calendar year 2002 and 2003. This has gone on for a couple of years. It's hard to believe that we can have a hostile work environment for that long of a period and let the officer keep the job. At some point, we have to say, if you do it once or twice, you can be excused. We can send you to school. But when you repeatedly share the remarks with officers, and I won't even repeat what's in these documents, I mean it's hard to believe what I was reading. And I thought I went back 20, 30 years in time ..."

HEARING OF LIEUTENANT DANIEL M. CURIEL, SPECIAL OPERATIONS AND SECURITY DIVISION (FILE NO. C03-308 JWA

The hearing in the matter of Lieutenant Daniel M. Curiel, Star No. 69, Special Operations and Security Division, was called it having been set for this date. Lieutenant Curiel was charged, in a properly verified complaint by Alex E. Fagan, former Chief of Police of the San Francisco Police Department, with violating the Rules and Procedures, as follows:

SPECIFICATION NO. 1

Using slurs in referring to members assigned to Taraval Station (violation of Rules I-A, II-A and B, and Rules IV-C-1, 2, 3, and 4 of Department General Order 11.07 of the San Francisco Police Department);

SPECIFICATION NO. 2

While on duty used abusive, profane and inappropriate language in dealing with subordinates (violation of Rule I-A-1 of Department General Order 1.06 of the San Francisco Police Department);

SPECIFICATION NO. 3

Engaging in conduct that subverts the good order, efficiency or discipline of the Department or which reflects discredit on the Department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department);

SPECIFICATION NO. 4

Use of slurs which created a hostile work environment (violation of Rule I-A, Rules Ii-A and B, and IV-B-1 and 2 and Rules IV-C-1, 2, 3, and 4 of Department General Order 11.07 of the San Francisco Police Department).

Mr. Geoff Gordon-Creed, Attorney at Law, appeared on behalf of the San Francisco Police Department.

Lieutenant Daniel Curiel appeared in person and chose not to have legal counsel present.

Lieutenant Curiel admitted to the truth of the allegations contained in Specifications No. 1, 2, 3, and 4 and accepted responsibility for his actions.

The Police Commission accepted Lieutenant Daniel M. Curiel's plea by a vote of 4 to 1.

Based on Lieutenant Curiel's admission, the Commission requested a recommendation from Chief of Police Heather Fong.

> It is the recommendation of Chief of Police Heather Fong that Lieutenant Daniel Curiel be terminated from the Department, effective immediately. The termination will be held in abeyance for a period of three (3) years on the following conditions: (1) Lieutenant Curiel's conduct will be monitored by his superior officers and if there are any sustained acts of misconduct or sustained violations of Department General Order 11.07 during the three-year period, Lieutenant Curiel will be subject to immediate termination. (2) That Lieutenant Curiel be suspended without pay for 120 days, effective immediately, with each day of suspension served and no days held in abeyance. (3) That Lieutenant Curiel undergo EEO training as specified by the Department. (4) That Lieutenant Curiel write letters of apology acknowledging his conduct forthwith to the Department and to the female Lieutenant who was the subject of the slurs described in Specification No. 1, and (5) That Lieutenant Curiel be released from his probationary Q-60 appointment as a Lieutenant, effective immediately, and that Lieutenant Curiel agrees as part of the discipline to immediately remove his name from the Q-60 eligibility list and he agrees to waive any and all rights he may have in any forum to appeal his disciplinary release from probation.

The Commission took the matter under submission and the following resolution was adopted:

RESOLUTION NO. 35-04

DECISION – HEARING OF LIEUTENANT DANIEL M. CURIEL, SPECIAL OPERATIONS AND SECURITY DIVISION (FILE NO. C03-308 JWA)

WHEREAS, on November 14, 2003, Alex E. Fagan, former Chief of Police of the San Francisco Police Department, made and served charges against Lieutenant Daniel M. Curiel, as follows:

SPECIFICATION NO. 1
Using slurs in referring to members assigned to Taraval Station (violation of Rules I-A, II-A and B, and Rules IV-C-1, 2, 3, and 4 of Department General Order 11.07 of the San Francisco Police Department);

(1) At all times herein mentioned, Daniel M. Curiel, Star Number 69, (after this called "the accused") was and is a police officer employed by the San Francisco Police Department holding the rank of probationary Q-60 Lieutenant assigned to the Taraval District and now assigned to the Special Operations and Security Division.

(2) As a police officer, the accused was and is responsible for knowing and obeying the rules, orders and procedures of the San Francisco Police Department.

(3) Commencing on May 12, 2001, the accused was assigned to Taraval Station. The accused was assigned as one of two Platoon Commanders on the swing watch (1500-0100 hours). The accused worked four shifts each week, ten hours per shift. Another Lieutenant was a female ("the Other Lieutenant") was assigned to the swing watch in January 2002, also working four shifts per week of ten hours each. The accused and the other Lieutenant both worked on Wednesdays each week.

(4) The accused made frequent disparaging remarks about the Other Lieutenant to others. The accused disagreed with decisions and methods used by the Other Lieutenant, but his modus operandi was to never confront or acknowledge differences with the Other Lieutenant and to affect that everything was fine and present a cooperative attitude to her while using slurs and making negative comments to others in the station and at lineups.

(5) When talking to others about the other Lieutenant, the accused would often refer to her as a "bitch." During the Management Control Division investigation, the accused admitted that he may have used that word when referring to the Other Lieutenant. Several officers confirmed that the accused frequently referred to the Other Lieutenant as a "bitch."

(6) The accused also referred to the other Lieutenant using an extremely offensive disparaging and obscene term in reference to a woman.

(7) At a swing shift lineup, late in the month of November 2002, the accused said, to the officers present about the Other Lieutenant, that, "I think she is a little anal retentive because her daddy snuck into her bedroom one too many times."

(8) On January 18, 2003, a female Sergeant assigned to the swing watch at Taraval Station called a police Lieutenant at Ingleside Station. The Sergeant complained that the accused had made frequent and pervasive gender specific slurs and other derogatory remarks about the Other Lieutenant and this, along with what the Sergeant felt were veiled threats and frequent intimidating remarks, was creating a hostile work environment for her at Taraval Station. This complaint sparked an investigation.

(9) The accused, by making constant and pervasive slurs and disparaging remarks toward the Other Lieutenant, created a hostile work environment for the officers who had to hear his comments and veiled threats in violation of Rule I-A, Rules II-A and B, and Rules IV-B-1, 2, 3, and 4 of Department General Order 11.07 of the San Francisco Police Department, which state:

"I. A. All members of the San Francisco Police Department shall be treated with respect and dignity, and work in an environment free from discrimination and harassment.

II. A. MEMBERS. Any member who violates this order or interferes with its implementation shall be subject to disciplinary action which may include suspension by the Chief, suspension by the Police Commission, or termination by the Police Commission.

B. SUPERVISORS' RESPONSIBILITIES. Every supervisor shall enforce this order. Tacit approval of harassment or discrimination by "turning a blind eye," laughing and treating a situation as a joke, failure to take action, or concealing a situation constitutes "negligent supervision" and will subject the supervisory officer to disciplinary action. Excuses will not be accepted or tolerated if the investigation reveals that the supervisor knew or should have known about the harassment or discrimination.

IV. B. HARASSMENT
1. Harassment is a form of discrimination and is defined as undue pressure which is imposed because of an individual's or group's

sex or because of any other categories listed in Section IV., A., 1.-10.
2. SEXUAL HARASSMENT

A. The law defines sexual harassment as unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when
B. (1) submission to such conduct is made a term or condition of employment; or
(2) submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or (3) such conduct has the purpose of effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment."

SPECIFICATION NO. 2
While on duty used abusive, profane and inappropriate language in dealing with subordinates (violation of Rule I-A-1 of Department General Order 1.06 of the San Francisco Police Department);

(10) Each and every allegation contained in paragraphs (1) through (8), inclusive, of Specification No. 1 above is incorporated herein by reference and is realleged as though set forth in full.

(11) One of the duties of the Platoon Commander is to conduct lineups at the commencement of each shift. During the lineup the Platoon Commander informs the members of their duties and assignments. The members are also informed of remarkable incidents that have happened and anticipated incidents.

(12) During the lineups the accused conducted during 2002 and until his transfer in January 2003, the accused on many occasions referred to other officers as "fucks." He stated that as a result of his tenure at the Management Control Division, he knew how to "fuck cops" and the accused stated that "you think you are going to bend me over, think twice about it," which was taken as a veiled threat by officers who overheard the comment.

(13) The accused, by his conduct in using gross, profane, and obscene language addressing and dealing with subordinates at the lineups, has engaged in conduct which violates Rule I-A-1 of Department General Order 1.06, which states:

"I. POLICY
A. SUPERIOR OFFICERS. All superior officers shall:

1. CONDUCT. Set an example of efficiency, sobriety, discretion, industry, and promptness. Not sue abusive language or act arbitrarily in dealing with subordinates."

SPECIFICATION NO. 3
Engaging in conduct that subverts the good order, efficiency or discipline of the Department or which reflects discredit on the Department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department);

(14) Each and every allegation contained in paragraphs (1) through (8), inclusive, of Specification No. 1 above is incorporated herein by reference and is realleged as though set forth in full.

(15) The Sergeant who brought the matter forward on January 18, 2003, attempted to mediate the differences between the accused and the Other Lieutenant concerning matters which caused him to make disparaging

remarks about her. The Sergeant asked the accused if there might not be a common ground between the accused and the Other Lieutenant. The accused stated that he and the Other Lieutenant were very far apart [illustrating with his arms spread far apart] and that the Other Lieutenant had no time in the business when she was promoted, she just happens to be a good test taker who was having a relationship with a female commissioned officer.

(16) The use of slurs, the reference to the Other Lieutenant's sexual orientation and the disrespect the accused demonstrated toward the Other Lieutenant, contravenes Rule I-A of Department General Order 11.07, which states:

"All members of the San Francisco Police Department shall be treated with respect and dignity, and work in an environment free from discrimination and harassment."

(17) The accused, by his use of unprofessional language, by exhibiting unprofessional conduct and by his pervasive use of slurs in reference to the Other Lieutenant has engaged in conduct which violated Rule I-A of Department General Order 11.07; any reasonable police officer must know that such conduct violates the standards of the Department, brings discredit on the Department and constitutes conduct which subverts the good order and discipline of the Department and is cause for discipline or dismissal from employment, as provided in Rule 9 of Department General Order 2.01 of the San Francisco Police Department, which states:

"MISCONDUCT. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of an officer either within or without the State that tends to subvert the order, efficiency or discipline of the Department, or reflects discredit upon the Department or any member, or is prejudicial to the efficiency and discipline of the Department, though not specifically defined or set forth in Department policies and procedures, shall be considered unofficer-like conduct subject to disciplinary action."

SPECIFICATION NO. 4
Use of slurs which created a hostile work environment (violation of Rule I-A, Rules I-A and B, and IV-B-1 and 2 and Rules IV-C-1, 2, 3, and 4 of Department General Order 11.07 of the San Francisco Police Department).

(18) Each and every allegation contained in paragraphs (1) through (8), inclusive, of and paragraphs (11) through (12) above is incorporated herein by reference and is realleged as through set forth in full.

(19) These comments made consistently throughout 2002 and into 2003, created a hostile work environment for every one who worked around the accused, including but not limited to personnel who were present when the comments were made, and the Other Lieutenant who inevitably heard about the despicable things the accused said about her. The Sergeant who reported these remarks was fearful of retaliation because the accused boasted that he could interfere with the careers of other officers. Other officers objected to the constant inappropriate language used by the accused in carrying out his official duties.

(21)*sic* The accused, by constantly using inappropriate language with respect to women members, created a hostile work environment for the Lieutenant, the Sergeant and other officers in violation of Rule I-A, Rules II-A and B, and Rules IV-B-1, 2, 3, and 4 of Department General Order 11.07 of the San Francisco Police Department, which state:

"I. A. All members of the San Francisco Police Department shall

be treated with respect and dignity, and work in an environment free from discrimination and harassment.

II. A. MEMBERS. Any member who violates this order or interferes with its implementation shall be subject to disciplinary action which may include suspension by the Chief, suspension by the Police Commission, or termination by the Police Commission.

B. SUPERVISORS' RESPONSIBILITIES. Every supervisor shall enforce this order. Tacit approval of harassment or discrimination by "turning a blind eye," laughing and treating a situation as a joke, failure to take action, or concealing a situation constitutes "negligent supervision" and will subject the supervisory officer to disciplinary action. Excuses will not be accepted or tolerated if the investigation reveals that the supervisor knew or should have known about the harassment or discrimination.

IV. B. HARASSMENT

1. Harassment is a form of discrimination and is defined as undue pressure which is imposed because of an individual's or group's sex or because of any other categories listed in Section IV., A., 1.-10.

2. SEXUAL HARASSMENT

A. The law defines sexual harassment as unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when

B. (1) submission to such conduct is made a term or condition of employment; or (2) submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or (3) such conduct has the purpose of effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment."

WHEREAS, a hearing on said charges was held before the Police Commission pursuant to Appendix A, Section A 8.343 of the Charter of the City and County of San Francisco on April 7, 2004, and on April 14, 2004 where the matter was submitted to the Police Commission for decision; and

WHEREAS, based on Lieutenant Daniel M. Curiel's admissions, the Commission finds the allegation contained in Specifications No. 1, 2, 3, and 4 of the disciplinary charges as preferred by former Chief of Police Alex E. Fagan against Lieutenant Daniel M. Curiel are sustained; and the Commission adopts the sustained specifications as its findings in this matter; therefore be it

RESOLVED, that based on these findings, consistent with the Commission's duty to protect the health, safety, and general welfare of the citizens of the City and County of San Francisco and the public in general, and in order to promote efficiency and discipline in the San Francisco Police Department, the Police Commission orders the following discipline be imposed:

SPECIFICATION NO. 1:	Sustained
SPECIFICATION NO. 2:	Sustained
SPECIFICATION NO. 3:	Sustained
SPECIFICATION NO. 4:	Sustained

That Lieutenant Daniel M. Curiel be terminated from the Department, effective immediately. The termination will be held in abeyance for a period of three (3) years on the following conditions: (1) Lieutenant Curiel's conduct will be monitored by his superior officers and if there are any sustained acts of misconduct or sustained violations of Department General Order 11.07 during the three-year period, Lieutenant Curiel will be subject to immediate termination. (2) That Lieutenant Curiel be suspended without pay for 120 days, effective immediately, with each day of suspension served and no days held in abeyance. (3) That Lieutenant Curiel undergo EEO training as specified by the Department. (4) That Lieutenant Curiel write letters of apology acknowledging his conduct forthwith to the Department and to the female Lieutenant who was the subject of the slurs described in Specification No. 1, and (5) That Lieutenant Curiel be released from his probationary Q-60 appointment as a Lieutenant, effective immediately, and that Lieutenant Curiel agrees as part of the discipline to immediately remove his name from the Q-60 eligibility list and he agrees to waive any and all rights he may have in any forum to appeal his disciplinary release from probation

FURTHER RESOLVED, that said one hundred twenty (120) days suspension imposed shall commence on Thursday, April 15, 2004, at 0001 hours, and terminate on Thursday,
August 12, 2004, at 2400 hours.

If this decision is subject to review under Code of Civil Procedure §1094.5, then the time and within which judicial review must be sought is governed by California Code of Civil Procedure , §1094.6.

AYES: Commissioners Perry, Quaranta, Chan, Friday
NAYS: Commissioner Makras

PUBLIC COMMENT

Inspector Antonio Flores, Latino Peace Officers Association
Sergeant Serujo, Latino Peace Officers Association
Inspector Lea Militello, Pride Alliance Police Officers Association
Inspector Julian Hill, OFC

All the above congratulated Chief Fong and expressed their support for the Espinoza Family.

Ms. Ernestine Wright congratulated Chief Fong and ask for more beat cops in the downtown area.

Ms. Minnie Ward, OMI, Ms. Mary Harris, OMI, Ms. Bonnie, OMI, and Allie Young, OMI, expressed their condolences to the Department to the family of Officer Espinoza. They all asked that the Chief assign more patrol officers to Taraval Station, particularly two more sergeant because the district was two sergeants short as compared to other stations.

Chief Fong informed the public and the Commission that Deputy Chief Suhr had just returned two sergeants to Taraval Station. Both sergeant returned to duty after being off on disability.

Thereafter, the meeting was adjourned.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

ANGELO QUARANTA
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

VICTOR MAKRAS
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, APRIL 14, 2004
5:30 p.m.

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Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

1. Pledge of Allegiance

2. Roll Call

3. Approval of Minutes for the Meeting of March 24, 2004 (ACTION ITEM)

4. Assignment of Commissioner and Setting of Date for Taking of Evidence on Disciplinary Charges filed against Officer Bernard J. Sullivan, Traffic (File No. C04-045 JWA) (ACTION ITEM)

5. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)

6. Chief's Announcements and Review of Recent Department Events

7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events

8. Disposition on Disciplinary Charges filed against Lieutenant Daniel Curiel, Special Operation (File No. C03-308 JWA) (ACTION ITEM)

9. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-5163; E-MAIL: Donna Hall@ci.sf.ca.us. COPIES OF THE SUNSHINE ORDINANCE CAN BE OBTAINED FROM THE CLERK OF THE SUNSHINE TASK FORCE, THE SAN FRANCISCO PUBLIC LIBRARY, AND ON THE CITY'S WEBSITE AT www.ci.sf.ca.us/bdsupvrs/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Government Code §2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics

SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A **sound enhancement system** will be available on request at the proceeding.

Meeting agendas and other print materials will be made available in **alternate formats** (computer disk, cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products.

The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

≡ Minutes

APRIL 21, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Quaranta, Chan, Friday, Makras

APPROVAL OF MINUTES FOR THE MEETING OF APRIL 7, 2004

Commissioner Quaranta made a motion for approval of the minutes for the meeting of April 7, 2004. Second by Commissioner Friday. Approved 5-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

Commissioner Quaranta introduced Mr. Joseph Veronese, one of the six persons selected to become a Police Commissioner.

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CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fong addressed the Commission and reported that this week has been a very busy week, having the services for Officer Isaac Espinoza and working with the family to settle administrative issues.

The Chief, along with Deputy Chief Parra, Legal, and Planning Divisions met with the Chinese Community to discuss how the department can improve services to mono-lingual communities and not just the Chinese community.

The Chief also attended a special hearing on the Civil Service Rules. Rules were adopted and they appear to be workable. However, there must be meet and confer conferences. There cannot be any promotional examinations until these rules are in place.

Chief Fong and Deputy Chief Parra met, on Tuesday, with the different groups bidding to provide the department with an updated Report Management Information Services. Lieutenant Gitmed explained the process to the Commission. The process is called SAR, Strategical Analysis Reporting. More than 55 vendors attended the information meetings held over the past months. Thirteen vendors submitted proposals. Of those 13, the department have selected six and will eventually select, who they consider, the number one vendor. They will then visit other departments and view firsthand how the system is operating. This system should bring the department into the 21st century.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, stated that Friday his office will participate in a conference with delegates from Tajikistan to discuss a climate of peace. The 16 delegates represent police, schools, and security. The conference will conclude with a dinner at the Russian Consulate.

Director Allen also reported that the OCC will be attending town hall meetings in the Visitation Valley and in Chinatown.

Director Allen also thanked Chief Fong and the Department for responding quickly to citizens' problems during the week the department was in the mist of the death of Officer Espinoza.

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DISCUSSION AND ACTION RE: REVISED GENERAL ORDER 10.10, "MOTOR FLEET"

Taken off calendar.

PUBLIC COMMENT

Mr. Daniel Paz spoke in support of District Attorney Harris in not seeking the death penalty and against the police for asking DA Harris to recuse herself from the case.

Thereafter, the meeting was adjourned at 5:55 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

CONNIE PERRY
PRESIDENT

ANGELO QUARANTA
Vice President

SIDNEY CHAN
Commissioner

WAYNE FRIDAY
Commissioner

VICTOR MAKRAS
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, APRIL 28 , 2004
5:30 p.m.

Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 551
San Francisco, California

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1. Pledge of Allegiance
2. Roll Call
3. Approval of Minutes for the Meeting of April 14, 2004 (ACTION ITEM)
4. Police Commission Announcements
   a. Motion of Calendaring of New Items (ACTION ITEM)
5. Approval of the Awards Committee Recommendation (ACTION ITEM)
6. Chief's Announcements and Review of Recent Department Events
7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events
8. Discussion and Action re: OCC Budget for Fiscal Year 2004/2005 (ACTION ITEM)
9. Discussion and Action re: SFPD Budget for Fiscal Year 2004/2005 (ACTION ITEM)
10. Discussion and Possible Action to Adopt Decision Denying Motion for Dismissal of Disciplinary Charges filed against Officer Nicholas Bettencourt, Southern (File No. CCL 03-144), Officer Adam Choy, Central (File No. CCL 03-145), Sergeant Walter Cuddy, Bayview (File No. CCL 03-146), Sergeant Sherman Lee, Bayview (File No. CCL 03-147), and Officer Marcial Marquez, Southern (File No. CCL 03-148) under California Government Code section 3304(d) (ACTION ITEM)
11. Public Comments
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

*There will be Public Comments on any item before or during discussion of each item.

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(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products.

The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

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≡Minutes

APRIL 28, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:45 p.m., in a Regular Meeting.

PRESENT: Commissioners Perry, Quaranta, Chan, Friday, Makras

APPROVAL OF MINUTES FOR THE MEETING OF APRIL 14, 2004

Commissioner Quaranta made a motion to approve minutes of the Police Commission meeting of April 14, 2004. Second by Commissioner Chan. Minutes approved 5-0.

POLICE COMMISSION ANNOUNCEMENTS

a. Motion of Calendaring of New Items

None

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APPROVAL OF THE AWARDS COMMITTEE RECOMMENDATION

Commissioner Makras made a motion to approve the Awards Committee recommendation. Second by Commissioner Friday. Approved 5-0.

AWARDS GRANTED TO MEMBERS OF THE POLICE DEPARTMENT

WHEREAS, the following named member of the Police Department have been commended for courageous service under the provisions of General Order 3.09, Section I.A.1 of the San Francisco Police Department, as approved by the Awards Committee; and

WHEREAS, Chief of Police Heather Fong has recommended to the Police Commission that the said member be rewarded under the provisions of Section 8.405(a)(4) of the Charter of the City and County of San Francisco; therefore be it

RESOLVED, that Officer Isaac Espinoza is hereby awarded, posthumously, the Gold Medal of Valor and granted the reward of $1500.00, as provided for under said section of the Charter. and be it further

AYES: Commissioners Perry, Quaranta, Chan, Friday, Makras

CHIEF'S ANNOUNCEMENTS AND REVIEW OF RECENT DEPARTMENT EVENTS

Chief Fong introduced Commissioner Morgan Girardo of the Civil Service Commission. Commissioner Girardo presented a Certificate of Appreciation from the Civil Service Commission to Sergeant Michael Zurcher of the Backgrounds Investigation Unit. A police candidate who appeared in front of the Civil Service was being considered to be hired. Through the diligent backgrounds investigation by Sgt. Zurcher, which included visiting Los Angeles, evidence was discovered that led to the subject's arrest by LAPD for a 1987 homicide.

Chief Fong reported on several events which took place this past week:

Thursday, the 9th class of officers graduated from the Crisis Intervention Course. Over 200 officers have been trained so far.

The Chief stated that the Department's Fiscal Unit are still meeting with the Mayor's Budget office and that is why she the budget issue is taken

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off tonight's calendar.

The Chief met with the visiting group from Tajikistan as part of the Climate of Trust program. She also met with the City Attorney's office to discuss the new Civil Service Rules and hopes to have meet and confer meetings soon.

On April 24, 2004, Mayor Newsom held his 2nd Town Hall meeting, which was held in the Visitation District. The main topic was violence and what the Department plans on doing.

Commander Shinn attended the Veterans for War Ceremony where Officer Kevin Nobel of Ingleside Station was honored by VFW for his community policing in the district.

Chief Fong thanked the Commissioners for their service to the Department and the City of San Francisco. This is the last meeting for this Commission. On April 30th, seven new Commissioners will be appointed.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, reported on several issues:

He met with the Tajikistan delegation to discuss the functions of the OCC since the idea of an OCC is a new concept to them.

Director Allen also attended the town hall meeting in the Visitation Valley district. He also met with the homeless coalition to discuss functions of the OCC and how to make contact with OCC investigators.

Director Allen thanked the Commission on behalf of the OCC for their dedication to the City, the Police Department, and the OCC.

DISCUSSION AND ACTION RE: OCC BUDGET FOR FISCAL YEAR 2004/2005

Taken off calendar

DISCUSSION AND ACTION RE: SFPD BUDGET FOR FISCAL YEAR 2004/2005

Taken off calendar

DISCUSSION AND POSSIBLE ACTION TO ADOPT DECISION DENYING MOTION FOR DISMISSAL OF DISCIPLINARY CHARGES FILED AGAINST OFFICER NICHOLAS BETTENCOURT, SOUTHERN (FILE NO. CCL 03-144), OFFICER ADAM CHOY, CENTRAL (FILE NO. CCL 03-145), SERGEANT WALTER CUDDY, BAYVIEW (FILE NO. CCL 03-146), SERGEANT SHERMAN LEE, BAYVIEW (FILE NO. CCL 03-147), AND OFFICER MARCIAL MARQUEZ, SOUTHERN (FILE NO. CCL 03-148) UNDER CALIFORNIA GOVERNMENT CODE SECTION 3304(d)

Commissioner Chan made a motion to adopt the written decision denying the motion for dismissal of disciplinary charges filed against Officer Nicholas Bettencourt, Officer Dam Choy, Sergeant Walter Cuddy, Sergeant Sherman Lee, and Officer Marcial Marquez under Government Code Section 3304(d). Second by Commissioner Makras.

Roll call vote:

Commissioner Connie Perry - Not to dismiss

Commissioner Angelo Quaranta - Dismiss
Commissioner Sidney Chan - Not to dismiss
Commissioner Wayne Friday - Dismiss
Commissioner Victor Makras - Not to dismiss

Vote was 3 to 2 not to dismiss and to adopt the written decision not to dismiss.

RESOLUTION NO. 37-04

ADOPTION OF DECISION DENYING MOTION FOR DISMISSAL OF DISCIPLINARY CHARGES FILED AGAINST OFFICER NICHOLAS BETTENCOURT, SOUTHERN (FILE NO. CCL 03-144), OFFICER ADAM CHOY, CENTRAL (FILE NO. CCL 03-145), SERGEANT WALTER CUDDY, BAYVIEW (FILE NO. CCL 03-146), SERGEANT SHERMAN LEE, BAYVIEW (FILE NO. CCL 03-147), AND OFFICER MARCIAL MARQUEZ, SOUTHERN (FILE NO. CCL 03-148) UNDER CALIFORNIA GOVERNMENT CODE SECTION 3304(d)

RESOLVED, that the Commission hereby adopts the decision denying Motion for Dismissal of disciplinary charges filed against Officer Nicholas Bettencourt, Sourthern (File No. CCL 03-144), Officer Adam Choy, Central (File No. CCL 03-145), Sergeant Walter Cuddy, Bayview (File No. CCL 03-146), Sergeant Sherman Lee, Bayview (File No. CCL 03-147), and Officer Marcial Marquez, Southern (File No. CCL 03-148) under California Government code Section 3304(d), which states:

"Police Commission of the City and County of San Francisco
In the Matters of Sergeant Sherman Lee, Sergeant Walter Cuddy, Officer Nicholas Bettnecourt, Officer Marcial Marquez, and Officer Adam Choy,
Case Nos. C03-144, C03-145, C03-146, C03-147 and C03-148.
Statement of Decision Denying the Motion to Dismiss Pursuant to California Government Code Section 3304(d)

Sergeants Lee and Cuddy, and Officers Bettencourt, Marquez and Choy (the "charged officers"), through their counsel of record, seek an order dismissing all charges in case nos. C03-144, C03-145, C03-146, C03-147 and C03-148 on the ground that the Police Department (the "Department") failed to file such charges with the Police Commission (the "Commission") within the time limits prescribed by California Government Code section 3304(d). Arguments on the motion were presented to the full Commission at its regular meeting on March 24, 2004.[1] Having considered the oral arguments made by all counsel, and having considered the briefs filed by the parties, and in reliance upon those briefs and oral arguments, this Commission hereby denies the charged officers' Motion to Dismiss. [2]

I.
STATEMENT OF FACTS[3]

The charges at issue in this case arise from an incident that occurred in the 700 block of Kirkwood Avenue in San Francisco. Shortly after midnight on January 21, 2002, uniformed members of the Department responded to a

[1] A quorum of the Commission was unable to reach a decision on March 24, and the Commission heard the Motion again on April 7, 2004. A transcript of the March 24 proceedings was provided to all Commissioners who attended on April 7 but were absent on March 24.

[2] Attorneys for the charged officers objected to the Commission permitting the public to offer comment on this matter at open and public Commission meetings. The Commission, however, is required by local and state law to allow for public comment on all items on the meeting agenda, and on all other items within the Commission's jurisdiction. Moreover, the Commission did not base its decision in this matter on comments from members of the public, but on the legal arguments submitted orally and in writing by the parties.

[3] The Commission's decision to deny the Motion to Dismiss is based on its factual findings as set for the in Parts I and II of this Statement of Decision.

"911" call from an individual reporting that several African American males wearing hoods or masks were removing guns from the trunk of a red car near the Hunters' Point Boys and Girls Club. Officers responding to the scene detained four African American juveniles.

While the officers at the scene were detaining the four juveniles, bystanders began to protest the officers' treatment of the juveniles. The officers eventually arrested two such bystanders – an adult and a juvenile. The four juveniles originally detained were released at the scene.

On January 22, 2002, the Office of Citizen Complaints (the "OCC") received a complaint against multiple officers for conduct allegedly occurring during the January 21 incident. (Field Decl., ¶2.) The OCC subsequently received seven more complaints concerning the conduct of officers involved in the incident. Ultimately, the OCC investigated 119 allegations against 26 officers, interviewed 44 witnesses, analyzed numerous Department photographs and other records, and issued a 53-page investigative report accompanied by a 28-page document outlining the findings relevant to all 119 allegations. (Field Decl., ¶ 4.)

On December 10, 2002, an individual filed a lawsuit against the City and County of San Francisco (the "City") on behalf of one of the juveniles involved in the January 21, 2002 incident. (Field Decl., ¶ 17.) The complaint named each of the charged officers as defendants. (*Ibid.*) On January 17, 2003, several other individuals filed suit alleging wrongful conduct by each of the charged officers during the same incident. (Field Decl., ¶ 18.) As of January 21, 2004, these lawsuits were still pending in San Francisco Superior Court. (*Id.* at ¶¶17 & 18.)

The OCC completed its witness interviews in September of 2002, and during the next three months analyzed the evidence gathered, determined which allegations should be sustained, and prepared its written report. (Field Decl., ¶ 3.) The OCC notified the charged officers of its proposed findings on January 8, 2003. (*Id* at ¶7.) On January 22, 2003, the OCC delivered its final report to the Department. (*Id* at ¶8.) At the April 9, 2003 Commission meeting, Acting Chief Fagan announced that the Department had just completed its review of the OCC final report, and would be notifying the appropriate parties of its decision the following day. (Mahoney Decl., Exh. G.)

In his remarks to the Commission at the April 9, 2003 meeting, Chief Fagan apologized to the Commission for the Department's failure to complete its review of the OCC's report within 60 days as required by Department General Order ("DGO") 2.04(III)(A)(5)(b). Chief Fagan attributed this failure to the temporary incapacity of the officer in charge of the Department's Management Control Division ("MCD"), and to the indictment of former Chief Sanders and members of the command staff in February of 2003. (*Ibid.*) The Department served the charges upon each of the charged officers within three weeks of the April 9 meeting – between April 23 and April 28, 2003. (Field Decl., ¶¶ 12-16.)

II.

SAN FRANCISCO'S SYSTEM FOR INVESTIGATING AND IMPOSING DISCIPLINE IN RESPONSE TO CITIZEN COMPLAINTS

California Penal Code section 832.5 requires public entities that employ peace officers to adopt a procedure for investigating citizen complaints against its officers. Section 832.5 allows local entities to exercise discretion in determining how best to implement this requirement. The voters of San Francisco amended the City's Charter in 1982 to create the OCC and adopt a dual-agency response to citizen complaints of police misconduct.[4]

[4] In November of 2003, the San Francisco voters adopted Proposition H, effective December 5, 2003, which amended the City Charter to modify the City's system of police discipline. Because the Department served the charges at issue here before the Charter was amended, the discussion of the authority of the Chief and the OCC Director in this Statement of

The OCC is a civilian agency that, under its own director, investigates citizen complaints of police misconduct and recommends discipline to the Chief of Police. The OCC is independent of the Police Department, which is under the direction of the Chief of Police. The Police Chief may investigate citizen complaints of police misconduct, but the OCC must investigate such complaints. The Police Commission oversees and manages these two, separate, City departments.

If, upon conclusion of an investigation, the OCC Director decides to sustain a complaint, the Director forwards the investigative report to the Police Chief with a recommendation for either a Chief's hearing, which can result in suspension of up to 10 days, or a hearing on charges before the Police Commission, which can result in suspension of up to 90 days, or termination. Neither the OCC's recommendation that the officer be disciplined, nor its recommendation regarding the appropriate level of discipline (Chief's hearing or Commission hearing), binds the Chief.

When the OCC sustains allegations against an officer, DGO 2.04(III)(A)(5)(b) requires the Chief of Police, within 60 days of receipt of OCC's final report, to review the report and determine whether or not to file charges. If the Chief cannot complete this task within the 60-day period, DGO 2.04 requires the Chief to seek an extension of time from the Commission. (See DGO 2.04(III)(A)(5)©.)

III.
ANALYSIS

California Government Code section 3304(d) bars a public agency from disciplining a public safety officer if the agency has not completed its investigation and notified the officer of its proposed disciplinary action within one year of receiving the complaint of misconduct. Section 3304(d)'s one-year statute of limitations is subject to numerous exceptions that either toll the one-year period or allow the agency a reasonable extension to complete the investigation and notify the officer.

A. Tolling of the Statute of Limitations during the Pendency of the Civil Actions

Section 3304(d)(6) provides that "[i]f the investigation involves a matter in civil litigation [and] the public safety officer is named as a party defendant," the one-year statute of limitations "shall be tolled while that civil action is pending." In this case, the Department and the charged officers agree that the statute of limitations started to run on January 22, 2002 when the OCC received its first citizen complaint. They also agree that the Chief did not serve the officers with the charges against them until April of 2003, more than a year later.[5]

The Department argues, however, that the charges at issue here are not subject to dismissal under Government Code Section 3304(d). The Department contends that the statute of limitations was tolled as of December 10, 2002, when the first civil lawsuit arising from the incident was filed, and that the statute was still tolled when the officers were served with the charges. We agree.[6]

The charged officers argue that the civil lawsuits filed against the charged officers did not toll the statute of limitations here because the OCC's investigation was not hindered or otherwise affected by the pendency of the

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Decision will reflect the system as it existed before the effective date of Proposition H.

[5] The charged officers contend at one point in their Motion that service of the charges on the officers does not constitute notice of the "proposed disciplinary action" within the meaning of section 3304(d). The charges, however, inform the officers of the proposed disciplinary action – a hearing before the Police Commission. The S.F. Charter and the Department's General Orders inform all officers that the Commission may suspend an officer for up to 90 days or terminate the officer if the Commission sustains the charges.

[6] The lawsuit filed on January 17, 2003 also served to toll the statute of limitations.

lawsuits. But section 3304(d)(6) contains no such requirement for application of the tolling period. Section 3304(d)(6) states that the statute of limitations is tolled while the lawsuit is pending, without reference to the lawsuit's impact on the agency's investigation or charging decision. Likewise, section 3304(d)(6) does not provide that a public agency waives its right to rely on the tolling of the statute of limitations because the agency files charges against an officer while the statute is tolled.

B. Reasonable Extension of the Statute of Limitations

As stated above, we have determined that the one-year statute of limitation was tolled within a year of the OCC's receipt of the first complaint regarding the January 21, 2002 incident. The statute was still tolled when the Department served the officers with the charges against them. Therefore, Government Code section 3304(d)(4) does not bar the Department from instituting disciplinary proceedings against the charged officers. In addition, we conclude that the charged officers' Motion to Dismiss should be denied on two other grounds, whether considered separately or in combination. These other exceptions to Government Code section 3304(d) – the multiple officer exception and the multiple jurisdiction exception -- would extend the one-year limitations period through April 28, 2003, when the Department served the last of the charged officers.

I. Multiple Officers

Section 3304(d)(4) exempts a public agency from compliance with the one-year statute of limitations if the investigation "involves more than one employee and requires a reasonable extension." The charged officers argue that although this case involves an investigation of 26 officers, it would be unreasonable to extend the statute of limitations in this case. We disagree.

The "delay" in this case is, at most, little more than three months. The Department and the charged officers agree that the statute of limitations began to run on January 22, 2002, and that all charged officers were served by April 28, 2003. We believe that an extension of the statute of limitations from January 22, 2003 to April 28, 2003 would be reasonable here.

The OCC undertook a mammoth task when it interviewed 44 individuals, analyzed numerous reports, photographs and other documents, evaluated each of the 119 allegations of misconduct in light of the interviews and documents, and drafted a report summarizing its conclusions. The OCC completed this complex investigation and report in less than a year.

Likewise, the job facing the Department was formidable. The Department had to evaluate the OCC's 53-page report and 26-page outline, compare the witness's testimony, review the evidence provided by the documents, determine which charges should be sustained, determine the proper forum for the charges, and draft the charges. In light of the size and complexity of the investigation, we conclude that the approximately 15-month period in which the OCC and the Department accomplished these tasks was reasonable.

ii. Multijurisdictional Investigation

Government Code section 3304(d)(3) exempts a public employer from compliance with the one-year statute of limitations where the investigation is a "multijurisdictional investigation that requires a reasonable extension for coordination of the involved agencies." We have applied this exemption to investigations of citizen complaints in past cases because San Francisco's system of police discipline, in the context of citizen complaints of misconduct, involves two separate agencies, with distinct authority and duties.

The Department has the authority, but not the duty, to investigate citizen complaints of police misconduct. The OCC has a duty to investigate all citizen complaints of police misconduct, but lacks the authority to initiate

discipline.[7] Whether the Chief, through MCD, gathers additional evidence, or simply reviews the OCC report and all the documents, transcripts, photographs, audiotapes and videotapes that support it, the separate jurisdictions of the Department and the OCC overlap. These two agencies must coordinate to perform the investigative and charging function that is the subject of section 3304(d)'s limitation period.

The OCC's investigation of 26 officers accused of 119 acts of misconduct lasted almost a year. The OCC delivered its report to the Department on January 22, 2003, one year and a day after the incident occurred. The Department reviewed the lengthy report and by April 9, less than three months later, Acting Chief Fagan made his decision to file charges. The Department served all five of the charged officers within three weeks.

As Chief Fagan noted in his April 9, 2003 remarks to the Commission, the command staff's "situation" during this period contributed to the Department's failure to complete its review within the 60 days mandated by DGO 2.04(III)(A)(5)(b). Chief Fagan was presumably alluding to the fact that during this three-month period, former Chief Sanders, Assistant Chief Fagan, and two Deputy Chiefs, were indicted. After the indictments, when Chief Sanders became ill, both Alex Fagan and Heather Fong served as Acting Chief of Police. In light of all the circumstances we find that an extension of the statute of limitations through April 28, 2003 is reasonable.

The charged officers argue that the multiple jurisdiction exception is not applicable here because the Police Department did not conduct a separate investigation of the incident. As noted above, due to the nature of San Francisco's police disciplinary system, the investigation and charging of all misconduct cases arising from citizen complaints are multijurisdictional. In addition, Chief Sanders told the Commission on February 13, and February 27, 2002 that the Department was conducting its own investigation of the February 21, 2002 incident. (Field Brief, Exh. C.)

The charged officers also argue that the Superior Court in *San Francisco Police Officers Association v. City and County of San Francisco*, San Francisco Superior Court Case No. 324635 ("*SFPOA* case") determined, as a matter of law, that the OCC and the Department are not "multijurisdictional" agencies for the purposes of Government Code section 3304(d)(3). Therefore, the Superior Court's preliminary injunction in the *SFPOA* case bars the Commission from relying on the multijurisdictional exception. The parties, however, have now settled the *SFPOA* case, and the preliminary injunction is no longer in effect.

In addition, the Court of Appeal's unpublished decision in the *SFPOA* case belies the charged officers' characterization of the Superior Court's ruling. The Court of Appeals found it unnecessary to decide the legal question whether the OCC and the Department were "multijurisdictional" agencies. Instead, the Court held that the Superior Court did not abuse its discretion when it found the multijurisdictional exception inapplicable in that case because the City failed to present evidence of the necessity for a reasonable extension of the one-year statute of limitations.

iii. Failure to Comply with DGO 2.04

The charged officers repeatedly argue that the Department's failure to comply with DGO 2.04(III)(A)(5)(b) by completing review of the OCC's report within 60 days, or seeking an extension of the 60-day period from the Police Commission, is relevant to our determination whether to grant the Motion to Dismiss. The charged officers contend that failure to abide by the

[7] As noted in footnote 4, above, this description of San Francisco's police disciplinary system is based on the system as it existed prior to the December 5, 2003, the effective date of Proposition H.

terms of the DGO "amounts to a violation of Government Code section 3304(d)." We disagree.

DGO 2.04 requires the Chief of Police to complete his or her review of an OCC sustained case within 60 days of the Chief's receipt of the OCC report, or seek an extension of time from the Commission. (DGO 2.04(III)(A)(5)©).) Unlike Government Code section 3304(d), the Department's General Order provides no sanction for noncompliance. While the Chief's failure to comply with DGO 2.04 may influence the Commission's appraisal of the Chief's job performance, it does not require the Commission to dismiss pending charges.

CONCLUSION

Upon due consideration of the briefs of the parties, and for the reasons set forth above, this Commission hereby denies the charged officers' Motion to Dismiss Pursuant to California Government Code Section 3304(d)."

PUBLIC COMMENT

Malaika Parker, Bay Area Police Watch, congratulated the Commissioners on their decision not to deny disciplinary charges in the Detoy case and the MLK Birthday incident case and wished them all well.

Mike Bochamp asked the Commission to assist him in getting him three police reports from 1994, 1990, and 2002.

Rubin Goodman asked the Commission to investigate officers from Southern Station who allegedly choked him.

Julian Hill, OFJ President, congratulated the Commissioners for their dedication to the Department over the years and presented each Commissioner a Certificate of Appreciation.

Michael Serujo, Latin POA President, congratulated the Commissioners for their dedication to the Department and the citizens of San Francisco.

Therefore, the meeting was adjourned at 6:20 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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Commissioner

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Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MAY 5, 2004
5:30 p.m.

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1. Pledge of Allegiance

2. Roll Call

3. Drawing of lots by the Clerk of the Board of Supervisors pursuant to Charter Section 4.109 to stagger initial terms of the Newly Appointment Members of the reconstituted San Francisco Police Commission.

4. Election of President and Vice-President of the Commission. (ACTION ITEM)

5. Discussion and Possible Action to set the time and place for Regular Meetings of the Commission pursuant to Section 67.6 of the San Francisco Administrative Code. (ACTION ITEM)

6. Chief's Report (DISCUSSION ONLY)
   a. Summary of current Police Department initiatives and other matters for future Commission consideration.
   b. Announcements and review of recent Department Events.

7. OCC Director's Report re: Staffing and Budget and Summary of Recent Events (DISCUSSION ONLY)

8. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

= Minutes

MAY 5, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in their chambers, Room 551, Thomas J. Cahill Hall of Justice, 850 Bryant Street, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Chan, Marshall, Orr-Smith, Renne, Sparks, Veronese
ABSENT: Commissioner Keane

DRAWING BY LOTS BY THE CLERK OF THE BOARD OF SUPERVISORS PURSUANT TO CHARTER SECTION 4.109 TO STAGGER INITIAL TERMS OF THE NEWLY APPOINTED MEMBERS OF THE RECONSTITUTED SAN FRANCISCO POLICE COMMISSION

Ms. Gloria Young, Clerk of the Board of Supervisors, addressed the Commission and stated that she will first choose by lot the term of office of the Board of Supervisors three appointees. Using a small metal barrel/drum, she withdrew pieces of papers by lot and announced:

Commissioner Theresa Sparks, 3 years, term ending 4/30/07
Commissioner Peter Keane, 2 years, term ending 4/30/06
Commissioner Gayle Orr-Smith, 1 year, term ending 4/30/05

/04

She then withdrew pieces of papers by lot term of office of the Mayor's four appointees and announced:

Commissioner Louise Renne, 4 years, term ending 4/30/08
Commissioner Joe Veronese, 4 years, term ending 4/30/08
Commissioner Douglas Chan, 2 years, term ending 4/30/06
Commissioner Joe Marshall, 2 years, term ending 4/30/06

RESOLUTION NO. 38-04

INITIAL TERMS OF THE NEWLY APPOINTED MEMBERS OF THE RECONSTITUTED SAN FRANCISCO POLICE COMMISSION

WHEREAS, pursuant to Charter Section 4.109, the terms of the newly appointed members of the reconstituted San Francisco Police Commission shall be: The four members nominated by the Mayor, two members shall serve terms of two years and two members shall serve terms of four years; and, the three members nominated by the Rules Committee, one member shall serve a term of one year, one member shall serve a term of two years, and one member shall serve a term of three years; and

WHEREAS, the Clerk of the Board of Supervisors shall designate such initial terms;
therefore, be it

RESOLVED, that the members nominated by the Rules Committee: Commissioner Theresa Sparks shall serve a 3-year term with said term ending April 30, 2007; Commissioner Peter Keane shall serve a 2-year term with said term ending April 30, 2006; and Commissioner Gayle Orr-Smith shall serve a 1-year term with said term ending April 30, 2005. The members nominated by the Mayor: Commissioner Louise Renne shall serve a 4-year term with said term ending April 30, 2008; Commissioner Joe Veronese shall serve a 4-year term with said term ending April 30, 2008; Commissioner Douglas Chan shall serve a 2-year term with said term ending April 30, 2006, and Commissioner Dr. Joe Marshall shall serve a 2-year term with said term ending April 30, 2006.

DOCUMENTS DEPT.

AUG - 2 2004

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ELECTION OF PRESIDENT AND VICE-PRESIDENT OF THE COMMISSION

Commissioner Orr-Smith moved to elect officers for interim term to provide Commissioner Keane to be part of the deliberations for officers of the board. Second by Commissioner Renne.

Commissioner Chan added a further amendment that the interim term shall stand until such time a successor is elected.

Motion is amended for the record.

Commissioner Chan made a motion that Commissioner Renne serve as interim president. Second by Commissioner Veronese. Approved 6-0.

Commissioner Veronese made a motion that Commissioner Chan serve as interim Vice President. Commissioner Chan stated that in the interest of the other branch of government, he would recommend Commissioner Orr-Smith as interim vice president. Second by Commissioner Veronese. Approved 6-0.

RESOLUTION NO. 39-04

ELECTION OF PRESIDENT AND VICE PRESIDENT OF THE POLICE COMMISSION

RESOLVED, that Commissioner Louise Renne shall serve as Interim President, and Commissioner Gayle Orr-Smith shall serve as interim Vice President until such time that successors are elected as President and Vice President.

AYES:	Commissioners Renne, Orr-Smith, Chan, Marshall, Sparks, Veronese
ABSENT:	Commissioner Keane

DISCUSSION AND POSSIBLE ACTION TO SET THE TIME AND PLACE FOR REGULAR MEETINGS OF THE COMMISSION PURSUANT TO SECTION 67.6 OF THE SAN FRANCISCO ADMINISTRATIVE CODE

Commissioner Renne stated that this is on the agenda because the current Police Commission Hearing Room can only accommodate five members. Commissioner Renne also stated that there might be a possibility of securing a room in City Hall that would have sufficient space for the whole Commission to meet.

Commissioner Chan asked Lieutenant Geeter if there has been problems with respect to the capacity of a particular room arrangement in order to accommodate members of the public.

Commissioner Renne stated that Room 400 is larger than the current Commission Room.

Lieutenant Geeter stated that he counted the chairs in each rooms, 400, 416, 406, and 408, and stated that the largest room is Room 400 which will sit 83 citizens. He further stated that the other rooms will accommodate between 45 to 70 citizens.

Commissioner Veronese stated that the rooms be accessible and have the option of televising so that the public has an opportunity to either watch or hear over the radio or television.

Commissioner Renne stated that Room 400 has television capability and Lt. Geeter stated that all the rooms have this capability except for rooms

406 and 408.

City Attorney Mariam Morley stated that all the rooms at City Hall is accessible.

Commissioner Sparks stated that it would be better to have the meetings at City Hall due to better transportation and stated that the public will feel comfortable meeting at City Hall.

Commissioner Sparks made a motion to relocate the Police Commission meetings to City Hall on the contingency of the availability of Room 400. Second by Commissioner Veronese. Approved 6-0.

Commissioner Chan asked if the move would interfere with the work of the Commission as a result of having to wait for records to come over or persons or that sort of thing.

Chief Fong stated that the Department has representatives for each calendared item prepared to discuss those items and the Department will be prepared to answer questions here (in the Hall of Justice), or at City Hall.

Commissioner Veronese asked Director Allen of the OCC if it will be a problem for him if the meeting is moved to City Hall and Director Allen stated no.

Commissioner Orr-Smith asked that a meeting at the Bayview/Hunters Point District be calendared as soon as possible based on the availability of the calendar.

Commissioner Marshall asked about having quarterly meetings out in the districts.

Deputy City Attorney Mariam Morley stated that under the Sunshine Ordinance notice should be sent out 15 days prior to the meeting.

Commissioner Renne suggested that the Commission meeting every first and third Wednesdays of every month and concentrate more time to other matters that need to be discussed.

Commissioner Orr-Smith stated that it's been a pattern of the Police Commission to meet every Wednesday for at least 15 to 20 years and stated that it's a healthy tradition. Commissioner Orr-Smith also stated that this is a new Commission under Prop H, this Commission should continue the weekly meetings in order to be more available to the public.

Commissioner Sparks concurs with Commissioner Orr- Smith and suggested that the Commission should meet in the community more often than once a quarter and suggested meeting in the community either every other month or possibly even once a month in a given community.

PUBLIC COMMENT:

Mark Schlosberg, ACLU, stated that in the past, district Commission meetings were held at District Police Stations and that he feels that another venue would be more appropriate.

Sandra Cooper, Idriss Stelley Foundation and Bayview resident, recommended that a district meeting in the Bayview be held at the Southeast Community College.

Mesha Stelley, Idriss Stelley Foundation, stated that it is crucial to continue weekly meetings and suggested room for overflow crowds and that at times at the Hall of Justice nothing have been done for overflow crowds.

Dr. Eddie stated that it is very healthy to have community meetings and that the past Commission didn't think so. He also stated that it is important to

reach out to young people.

Eric Allen stated that the Commission should set one week out of the month for district meetings. He also stated that moving the weekly meetings to City Hall will be less intimidating.

Mr. Michaelson stated that the Bayview community should be notified and suggested that once a month the Commission meet at southeast community College. He also stated that the Commission should be listed in the phone book.

Commissioner Sparks made a motion to hold four meetings a month, one of which must be in the neighborhoods. The neighborhood will correspond to supervisorial districts rather than police districts. Commissioner Sparks also stated that the venue be placed at a neighborhood center when available and when not available at district stations. Second by Commissioner Marshall. Approved 6-0.

RESOLUTION NO. 40-04

TIME AND PLACE FOR REGULAR MEETINGS OF THE POLICE COMMISSION PURSUANT TO SECTION 67.6 OF THE SAN FRANCISCO ADMINISTRATIVE CODE

RESOLVED, that the San Francisco Police Commission will meet every Wednesdays of the month with the last Wednesday of the month designated for District Meetings; and

FURTHER RESOLVED, that the Police Commission will meet in Room 400, at City Hall, #1 Dr. Carlton B. Goodlett Place, San Francisco, for the Regular Meetings and will meet at a place and location, if available, in one of the supervisorial district, and, if not available, at a District Police Station's Community Room, on the last Wednesday of the month.

AYES:	Commissioners Renne, Orr-Smith, Chan, Marshall, Sparks, Veronese
ABSENT:	Commissioner Keane

CHIEF'S REPORT

a. Summary of current Police Department initiatives and other matters for future Commission consideration

b. Announcements and review of recent Department Events

Chief Fong updated the Commission on the activities of the department this past week. Chief Fong stated that the Department is working on the revision of Department General Order 3.19 which is Early Warning System. She stated that the General Order will be re-titled to the Early Intervention System and that the Department have had meeting with Mr. Schlosberg of the ACLU regarding this general order.

With regards to training, Chief Fong stated that the Department is preparing Whistle blowing Training and the first offering will be to the new recruit class that is in the Academy currently. This class will graduate in September of this year. The Department is also looking at the Transgender Training which was prepared and discussed as part of the overall transgender course work. The Department is also looking at a 2-day, 20-hour Weapons of Mass Destruction and Hazardous Material Training Course for officers preparedness for response to a hazardous situation or terrorists situation. These are all trainings that are incorporated into the Department in addition to the regular Community Policing Training and the continued professional training that is required on an 18-month basis.

Chief Fong also stated that the Department is working with the Controller's Office to implement the provisions of Proposition C from the last election which is civilianization of specific positions within the department.

Chief Fong also stated that the Department is working on clearing the backlog of pending disciplinary matters, not only on the Commission level but at the Chief's hearing level.

The Department is also working on the implementation of the modified duty policy which was recently adopted in March of this year. This has new provisions for the assignments as well as the duration of modified duty officers within the department.

In terms of the Police budget, the Department is working with the Mayor's Budget Office in order to meet the reduction requirements that have been set for the Department and as soon as there's an agreement on that budget, the budget will be presented to the Commission for approval prior to it's presentation by the Mayor to the Board of Supervisor.

In terms of technology, the Department has a new initiative that was funded through federal grant money and that is the COMSTAT Crime Mapping System. Chief Fong stated that in San Francisco we have been unable to actually just go into a computer and access data to tell us what crime stats are in a community. Chief Fong stated that we now have that availability and it is also a system that is available for the public by linking on to the police website. Chief Fong also talked about the CABLE System, which is the Record Management System, is over 30 years old and is a system that is not state of the art for a modern day police department. It is also a system that is relied upon by the Court system because the courts, the district attorney, the probation department has to draw information from the Department's record management system in order to do their job properly. So the Department has drawn out a request for proposal and have narrowed down the proposals down to six and the department is looking at which vendors should be selected in order to implement a new records management system for the department. Chief Fong stated that, if all goes well, it will be in January or February of next year that the new system will be available.

Chief Fong stated that the 207th Recruit Class will be graduating at the end of September and that is the only class scheduled for this fiscal year and there will be no recruit class between now and June. One class is in the Field Training Program and once they finish their training they will be assigned to their probationary assignments throughout the City's District Stations.

In terms of Civil Service Rules, the Department, since November of last year, has been meeting with the Civil Service Commission in order to revamp the Civil Service Rules for police employees in terms of hiring, testing, promotional and probationary issues.

Deputy Chief Pengel, Airport Bureau, spoke on the history of the airport police and why and when the Airport Police and San Francisco Police merged. Deputy Chief Pengel invited the Commission to visit the Airport. Chief Pengel stated that the merge occurred in July 1997. She described that the SFPD Airport Bureau are in contract with the Airport. Services are negotiated through a memorandum of understanding. The Airport Bureau is on a different budget from the SFPD. Their budget is covered under the Airport's budget. Chief Pengel also extended the invitation to the Commissioners to come and visit the Airport Bureau.

Commander Craig, Airport Bureau, updated the Commission on the daily activities of the Airport Police.

Commander Puccinelli, FOB, updated the Commission on the activities of the Metro Patrol Division.

Commissioner Chan asked about the tactical unit. Commander Puccinelli explained that the Tactical Unit does a lot of training in regards to terrorism and homeland security. However, they also supplement patrol. They

have been deployed to patrol the Bayview and Ingleside areas due to increased gang violence in those areas. The Tactical Unit is deployed on an as-needed basis based on needs of the different district. Commander Puccinelli invited the Commissioners to do ride-alongs.

Commander Shinn, FOB, updated the Commission on the activities of the Golden Gate Patrol Division. Commander Shinn described Operation Impact where the California Highway Patrol (CHP) worked with the SFPD. Commander Shinn also stated that community group leaders were contacted to get reaction from the community regarding this program.

Commissioner Marshall asked about the different roles of the CHP and the SFPD.

Commander Shinn explained that the CHP operates under their policies and procedures and rules of orders and the SFPD operates under their own rules and general orders.

Commissioner Orr-Smith ask Commander Shinn to report regarding Operation Impact as far as reaction from the community as well as reactions from the officers involved.

Commissioner Sparks asked how many officers are under Commanders Shinn's and Puccinelli's command. Commander Shinn stated that he has approximately 500 people under his command. Commander Puccinelli stated that within the FOB combined they have about 1200 under their command.

Commissioner Veronese asked about the Patrol Specials and asked for a report on what their duties and responsibilities are.

Chief Fong stated a report regarding Patrol Specials will be included in the Chief's Report for next week's meeting.

Commander Harper, Department of Parking and Traffic, described the duties and responsibilities of Parking and Traffic and their relationship with the department. Commander Harper stated that in 2002 the Department of Parking and Traffic merged with the Municipal Railway under the umbrella of the Municipal Transportation Agency. The mission statement of the DPT primarily were dedicated to enhancing the quality of life for the residents of San Francisco by encouraging the efficient movement of people and goods and traffic throughout the city. Commander Harper stated that she oversees a civilian staff of approximately 300 comprised of parking control officers, dispatchers, and support staff.

Deputy Chief Tabak, Investigations Bureau, described the activities of the Investigations Bureau. Deputy Chief Tabak stated that investigating violent crimes and getting guns off the street are the priority of the Investigations Bureau. He stated that the Department is working closely with the community, Field Operations, State and Federal Agencies in suppressing all violent crimes, all homicides, all narcotics related crimes in the community. He stated that three investigators have been added to the Homicide Unit. He's also working closely with DA Kamala Harris and have asked her to start giving the Department training once a month on specific items relating to investigation and charging cases. The Department is also working closely with the Mayor's Office and the community to encourage the public, citizens and witnesses, to come forward and assist the Department in ending violence in different communities. The Department is also working with the Mayor's Office to insure that witness relocation is a solid and a working program to keep witnesses safe when they do come forward.

Deputy Chief Tabak also stated the Investigations Bureau is the investigative end on counter-terrorism. There are members of the bureau in different task force with the federal government and with state agencies.

Chief Tabak also stated that the bureau is working with community groups to insure that hate crimes is something that doesn't occur in San Francisco and stated that the SFPD has a model Hate Crimes Unit nationally and internationally in setting up other hate crimes units with other law enforcement agencies.

Commissioner Orr-Smith asked Deputy Chief Tabak which agencies the Department is working with. Chief Tabak replied that the Department works with State, Federal Parole, FBI, DEA, California Bureau of Narcotics Enforcement, Homeland Securities, the Secret Service and pretty much every Federal Agencies such as the CHP in targeting specific crime problems.

Commissioner Veronese asked what criteria is being used to bring people into the Investigations Bureau. Chief Tabak replied that in order to be assigned to the Investigations Bureau, you have to be an assistant inspector. Eligible members are asked based on the need of the different units. Patrol Officers are occasionally assigned, who have a special skill and ability, and they are rotated in and out. They are primarily used in Gang Task Force, Narcotics, Vice and units like that.

Commissioner Marshall asked as far as moving the prosecution rate higher. Chief Tabak stated that there are plans to increase the efficiency and productivity and thoroughness of the investigation and to insure that every investigation results in a charge by the DA.

Commissioner Sparks asked about monies for the witness protection program. Chief Tabak stated that funding was never an issue for the witness protection program and stated that by increasing the reward that more witnesses will come forward.

Deputy Chief Parra, Administration Bureau, described the function and activities of the Administration Bureau. Chief Parra stated there are eight divisions under the Administration Bureau: Examination Division which oversees sworn and non-sworn entrance exams as well as promotional exams and bilingual testing; Field Training Office is the 16-week field training program. Chief Parra stated there are approximately 55 FTO sergeants and approximately 150 FTO officers in the field; Fiscal Division is in charge of the budget; Planning Division oversees the police facilities as well as report management and crime mapping; Property Control oversees the logging and maintaining storage of all evidence for the entire department; Staff Services Division oversees payroll, personnel, hiring, background unit, and medical liaison; Support Services Division oversees all police reports and permits; Training and Education Division (Academy) deals with continuous training for the entire department.

OCC DIRECTOR'S REPORT RE: STAFFING AND BUDGET AND SUMMARY OF RECENT EVENTS

Mr. Kevin Allen, OCC Director, updated the Commission on the activities of the OCC and, in response to a question, listed the different language spoken by the staff of the OCC. Mr. Allen talked about the training done at the Academy. He discussed duties and responsibilities of the OCC. He talked about the First Quarter Statistics which is accessible through the website. He stated that 174 cases were opened and closed 184 cases and 402 cases outstanding. He stated that his office do get a lot of complaints from other jurisdictions and they do their best to get those complaints to the proper offices. He stated that his staff gets involved with training from different units such as Tactical, Communications, Vice, et cetera.

Commissioner Sparks asked for a report as far as community outreach process and whether or not it's effective. Director Allen stated that his staff goes on ride-along and attend community meetings. He stated that they met with the Coalition on the Homeless, Officers for Justice, Asian American

Officers and other community organizations to get the word out as much as they can.

Commissioner Veronese asked about document production. Director Allen stated that last July there was a document protocol signed between the OCC and the Police Department that set out various time limits on if there was a document that the OCC felt was a routine request, the department has three days to get it to the OCC. Any non routine document request is 15 days. He stated there has been improvement in document requests response.

PUBLIC COMMENT

Mark Schlosberg, ACLU, congratulated the new Commissioners. He referred to a letter he submitted to the Commission prior to the meeting which suggested reforming the department's accountability system.

Jason Wather, OCC Investigator, asked the Commission to look at the cases brought to the Commission with an eye towards how can we prevent this and insure that it does not happen again.

Unidentified asked why doesn't the department screen complaints that come from any person on the street who can be making false statements.

Inspector Lea Millitello, SFPD co-chair of Pride Police Association, congratulated the new Commissioners.

Barry Toranto, taxi driver, reported on problems at the Airport with police and cab drivers. He stated he met with Commander Craig and hopes to workout the problems.

Eric Allen thanked the Commission for their willingness to hold community meetings. He also stated that the Airport is doing a great job as is DPT.

Sandra Cooper, Idriss Stelley Foundation welcomed the new Commissioners.

Sharling Spyth spoke on the issue of police activities involving the California Highway Patrols patrolling the Bayview.

Unidentified asked the Department to provide culture training to police.

Inspector Narda Gillespie spoke on the issue of promotional examination and stated that the department is discriminating against Hispanics and that the department does not have one female Hispanic lieutenant.

Sergeant Donna Leonard, SFPD Mission Station, spoke on the lieutenant's promotional examination list and stated that she was discriminated against.

Sergeant Mark Osuna spoke on the lieutenant's promotional list and stated he believes he was discriminated upon and asked the Commission for assistance in getting the funds to appoint more lieutenants.

Sergeant Mark Solomon spoke on the issue of the police lieutenant examination and asked the Commission to review the situation.

Inspector Julian Hill, OFJ President, stated that it is disturbing to sit and hear what has been said about the examination process.

Marion Jackson spoke on the issue of the promotional exam and said that he heard a lot about the fact that Blacks were promoted and nothing about the first 25 promotions in which no Blacks were promoted.

Sergeant Rick Schiff spoke on the issue of the lieutenant's promotional examination and that he has filed a lawsuit against the department.

Thereafter, the meeting was adjourned at 9:45 p.m.

_____

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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MAY 12 2004

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

05-12-04A11:20 RCVD

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MAY 12, 2004
5:30 p.m.

NEW LOCATION
CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

LT. EDWARD GEETER
Secretary

Pledge of Allegiance; Roll Call

1. Presentation of the Police Department's procedure, pursuant to General Order 8.11, for response to, and investigation of, officer-involved shootings. (DISCUSSION ONLY)

2. Chief's Report (DISCUSSION ONLY)
   a. Review of Recent Activities

3. OCC Director's Report (DISCUSSION ONLY)
   a. Review of Recent Activities

4. Discussion and possible action to set the location(s) of one or more of the upcoming, regular Commission meetings to be held in each of the eleven Supervisorial Districts. (ACTION ITEM)

5. Commission Announcements (DISCUSSION ONLY)
   a. Notice of reassignment of pending disciplinary cases:

      Sergeant Gregory Breslin (File No. C02-256 SCM)
      Sergeant Michael Moran (File No. C02-257 SCM)
      Inspector Peter Siragusa (File No. C02-258 SCM)
      Inspector James Zerga (File No. C02-259 SCM)

      Sergeant Sherman Lee (File No. CCL 03-147)
      Sergeant Walter Cuddy (File No. CCL 03-146)
      Officer Marcial Marquez (File No. CCL 03-148)
      Officer Nicholas Bettencourt (File No. CCL 03-144)
      Officer Adam Choy (File No. CCL 03-147)

      Officer Benjamin McAlister (File Nos. C00-281 JWA, C02-214 JWA, C02-213 JWA)
      Inspector Kevin Whitfield (File No. C03-247 JWA)
      Officer Michael Reesink (File No. C03-004 JWA)
      Officer Phillip Gonzalez (C04-018 EGF)
      Officer Michael Celis (File No. C03-119 JWA)
      Officer Jeffrey Aloise (Appeal) (File No. M-DRA D03-338)
      Officer Gary Hazelhofer (File No. C03-118 JWA)
      Officer Robert Ramos (File No. C04-026 JWA)
      Officer Bernard Sullivan (File Co. C04-045 JWA)
      Officer Michael Maxwell (File Nos. C03-241 JWA, C04-032 JWA)
      Officer Mark Stull (File No. C01-032 JWA)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MAY 12, 2004
5:30 p.m.

NEW LOCATION
CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

LT. EDWARD GEETER
Secretary

Officer Michael Tongsing (File No. C03-094 JWA)
Officer David Lee (File No. C03-097 JWA)

Officer Steven Redd (File No. C03-262 JWA)
Officer Reynaldo Vargas (File No. C03-302 EFG)
Officer Laurence Barker (File No. C02-128 JWA)
Officer Michael Toropovsky (File No. C03-362 JWA)
Inspector Marvetia Richardson (Appeal) (File No. M JWA D02-140)
Sergeant Eugene Yoshii (File No. C03-190 JWA)

b. Notice of assignment and setting of date for hearing on disciplinary charges filed against Officer Terry Y. Huey, Taraval Station (File No. EGF C04-060)

c. Identification of items for consideration at future Commission meetings.

6. Approval of the minutes of the Police Commission Meeting of May 5, 2004 (ACTION ITEM)

7. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The Commission will hear public comment on all agenda items before or during discussion of the item. Public comment is limited to three minutes for individuals and five minutes for representatives of organizations.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-5163; E-MAIL: Donna Hall@ci.sf.ca.us. COPIES OF THE SUNSHINE ORDINANCE CAN BE OBTAINED FROM THE CLERK OF THE SUNSHINE TASK FORCE, THE SAN FRANCISCO PUBLIC LIBRARY, AND ON THE CITY'S WEBSITE AT www.ci.sf.ca.us/bdsupvrs/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics.

SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

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For information about the meeting call 553 1667(v) or 553 9194 (tty)

≡Minutes

MAY 12, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton Goodlett Place, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

Commissioner Renne welcomed those in attendance to the Commission's first meeting at City Hall. She also welcomed Commissioner Keane who was out of the country at the time of the first Commission meeting.

Commissioner Keane responded by saying it was a long planned trip for his wife's birthday.

PRESENTATION OF THE POLICE DEPARTMENT'S PROCEDURE, PURSUANT TO GENERAL ORDER 8.11, FOR RESPONSE TO, AND INVESTIGATION OF, OFFICER-INVOLVED SHOOTING

Captain O'Leary, Risk Management, addressed the Commission and discussed General Order 8.11, the procedure on how the police response to and investigates cases of officers-involved shootings.

Commissioner Keane asked why the identity of officers involved in a shooting are not released to the public. Captain O'Leary stated that the general order was adopted in 1995 by the Police Commission.

Commissioner Keane then asked if it was adopted by the Police Commission, could this Police Commission change it. Captain O'Leary stated yes.

In response to a question by Commissioner Renne regarding document release, City Attorney Mariam Morley stated that upon request for documents, the department must respond within 10 days. If the request is an immediate response request, it must be responded to within 48 hours. Ms. Morley stated that she expects the Police Department will be seeking advise from her office.

In response to a series of questions from Commissioner Chan regarding requesting for medical treatment for either a police officer or the victim, Captain O'Leary stated that officers should request medical assistance immediately. Captain O'Leary stated response time from the Fire Department is reported to be within three minutes.

Commissioner Sparks asked about the summary report sent to the Commission after the conclusion of an officer-involved shooting investigation. Captain O'Leary stated that the Homicide Unit, after conclusion of its investigation, presents their investigation to the District Attorney (D/A). The D/A in turn will determine if any criminal violations occurred. The Management Control Division (MCD), who has been monitoring the investigation, would then investigate to ascertain if any department violations occurred and all of that will be in the summary report presented to the Police Commission and said summary report is a public document once submitted to the Commission.

Commissioner Veronese asked what is the time frame? Is it 3 months, 6 months, years or what? Captain O'Leary stated that each case its own merit, witnesses, or leads, and so cases could be closed in 9 months, some 18 months, and some cases goes beyond 18 months.

Commissioner Veronese asked City Attorney Morley if there was a statute preventing the release of officers' identity. Ms. Morley stated that there is a statute 832.7 that does protect the personnel records of police officers and

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that the statute is not very clear which results in a lot of litigations over this issue.

Commissioner Orr-Smith asked Captain O'Leary to explain how officers' statements are obtained. Captain O'Leary stated that officers has a constitutional right to remain silent. However, the Chief has a right to know what her officers did or did not do. So the first line of questioning comes from the Homicide investigator investigating the incident. If the officer refuse to answer questions put to him/her, that is when MCD steps in and compel the officer to answer. Now we are describing an act where someone perhaps is being forced to give a statement against their interest; that statement cannot be used against an officer in a criminal proceeding.

Commissioner Marshall asked if the summary report submitted to the Commission is the result of an internal investigation. Captain O'Leary stated yes.

Commissioner Keane asked, in addition to the summary report, do the Commission receive the underlying reports from Homicide and MCD. Captain O'Leary stated that the Commission would only receive the summary report, but if there were determination that misconduct had occurred, then the Commission will receive, in the form of evidence, showing that misconduct occurred. Commissioner Keane asked if it's in the Commission rules that the Commission is entitled only to the summary and not the underlying reports from Homicide and MCD. Captain O'Leary stated no.

Commissioner Sparks asked if there were any public disclosure of information before the case is closed and passed on to the District Attorney or to the Commission, is there any point during the investigation where there's an opportunity for any disclosure to the public. Captain O'Leary stated that a Public Records Act request (PRA) can be filed at any time. He informed the Commission that the ACLU has asked for documents. Commissioner Sparks asked if the Commission can have an update, during the course of the investigation, or a discussion relative to the investigation as it unfolds or is it only until the investigation is actually closed. Captain O'Leary stated that the Department has a duty not to make comments that would jeopardize a prosecution or a defendant in a case. Captain O'Leary stated that he would defer to the Chief of Police in this matter.

Commissioner Veronese asked if it's accurate that the Police Department investigates and the Police Department decides, and then gives the Commission the summary without the evidence. Captain O'Leary stated that the district attorney also looks at the homicide investigation within the process as well as the investigation by OCC and MCD.

Commissioner Orr-Smith inquired about the support system available to officers involved in shootings. Captain O'Leary stated that immediately there is a crisis intervention. Captain O'Leary stated that a member of the department is notified and brought to the officer so there's an immediate resource made available to the officer. Commissioner Orr-Smith asked if any of those resources are available to the community for people who are victims of homicide by having witnessed such an event. Captain O'Leary stated that yes, the Department of Public Health can provide such resource.

Commissioner Marshall asked when the Captain uses the words "according to policy" in describing the summary report, how will the Commission know which policy may have been violated. Captain O'Leary stated that there's an Administrative Format that states what the focus of the investigation is and the focus generally lists the possible policies that may have been violated.

PUBLIC COMMENT:

Daniel Paez addressed the Commission regarding the Detoy matter and asked for justice and truth regarding the Detoy case.

Malaika Parker, Bay Area Police Watch, asked for a moment of silence for people that have been killed or abused by law enforcement agencies. She also read a list of names of people that have been killed by law enforcement agencies. She stated that officer-involved shootings are a trend and asked the Commission to prosecute officers involved.

Van Jones, Ella Baker Center, spoke against police shooting stating that no police officer has ever been disciplined for police shooting in over 10 years.

Meachelle Sheppard, Cammerin Boyd's aunt, spoke on police misconduct and police involved shootings and asked for justice for Cammerin Boyd.

Jakana Imaki, Bay Area Police Watch, spoke on the issue of misconduct and police-involved shootings.

Mark Schlosberg, ACLU, spoke on police accountability, listing three points. He commended the Commission for asking questions. He also stated that the ACLU has requested the release of documents regarding this shooting. He stated that it is critical that OCC investigate this latest shooting incident and that conclusions should not be reached before the investigation has been completed.

Sandra Cooper, Idriss Stelley Foundation, thanked those who stood for a moment of silence when asked to rose.

Leroy Moore, People of Color with Disabilities, stated that for ten years he ha followed police shootings of people with disabilities and stated that this case should be taken federally as an ADA.

Shannon Altamoreno spoke on the issue of Sheila Detoy who was shot by police six years ago.

Bernie Scott spoke on the issue of police shooting.

Mark Solomon spoke on the issue of Prop H which resulted in the present Commission and stated that employees in the City should not be standing up for the death penalty.

Maria Castaneda spoke on the issue of police abuse and being a victim of domestic violence.

Inson Ho, went to school with Cammerin Boyd, spoke against the police shooting of Cammerin Boyd and asked for an outside investigation.

Unidentified spoke on the issue of more training for the police on cultural diversity in San Francisco.

Jack William, former city manager in Marin County, stated that the city needs to establish community service in the Bayview.

Karen, resident of Bayview Hunters Point, stated that since January 20th, 16 African-Americans were murdered in the neighborhood.

Alan Wong, student representative to the Board of Education, stated that the San Francisco Unified School District will be holding a youth summit on May 20th to discuss police issues at school during the school day.

Commissioner Keane requested two items be placed on the agenda for discussion: To discuss the possible repeal of General Order 8.11 that states an officer's identity cannot be release when involved in a shooting. Commissioner Keane also requested that a report form the Chief and City Attorney on the status of the ACLU's request for documents. Commissioner Keane stated that not releasing the identity of the officers involved in a shooting serves no public policy and in fact frustrates public policy. Commissioner Keane also stated that, in the future, command personnel shall not make statements justifying an officer's action before an investigation is completed. He stated that this is unprofessional and suggested some sort of department discipline for command personnel making such comments before an investigation is completed.

Commissioner Sparks thanked the public for their comments and asked for a report from the Chief as to when, what type of information can be release to the public, and what time frame, without compromising the investigation.

Commissioner Orr-Smith asked the Department to review what can be

released to the family of the person who was a victim in an officer-involved shooting incident.

Commissioner Marshall, responding to a statement made during public comment, expressed his disbelief that the case involving Sheila Detoy is six years old and still not completed and stated that the Commission must do something about this.

CHIEF'S REPORT

a. Review of Recent Activities

Chief Fong addressed the Commission and stated that the Commission had requested a report on three issues: (1) The effectiveness of Operation Impact where CHP officers were deployed to certain areas of the city; (2) a report on the Patrol Special Officers Program; (3) a report on the number of disciplinary cases that are within three months of the statute of limitation.

Commander Shinn reported on the joint police operation with the CHP named "Operation Impact" and stated that the operation started May 3rd and ended May 5th. It involved 16 to 32 CHP officers. CHP officers were deployed in high crime areas in the Bayview, Mission and Ingleside Police Districts and resulted in five felony arrests, 55 misdemeanor arrests, 72 towed vehicles, 521 vehicle citations and 154 warnings. Commander Shinn stated that having the CHP in the area freed San Francisco police officers to do proactive policing in the high crime areas and that he consider the program very successful. Commander Shinn stated that the department received both compliments and complaints. Some complaints are that the police was operating as an armed camp and that the CHP were only stopping cars that they noted were in violation of traffic and vehicle code violations.

Commissioner Marshall asked was the theory behind the operation was to patrol violent areas. Commander Shinn stated the idea was to patrol the corridors leading into areas that are experiencing violence and homicide.

Commissioner Sparks asked if the public were advised prior to implementing the program. Commander Shinn stated no, the community was not advised because they didn't want to alert those causing crimes and violence.

Commissioner Veronese asked how was the department evaluating the success of this program. Commander Shinn stated that one way was the low rate of calls for A and B calls for services. Both were drastically down during the three days and word got around quickly that the police are everywhere.

Commissioner Marshall stated that if word got around that the police were out in force, then it seemed to also work if the community was advised prior. Commander Shinn explained that this was a pilot program and can be adjusted to meet community concerns.

Commissioner Sparks asked if the department plans to conduct this program again. Commander Shinn stated that the department would like to conduct such a program again, but it would depend on the CHP's willingness to volunteer their services again.

Commissioner Chan asked what would lead to a person's car being impounded. Commander Shinn stated he could not answer the question directly, but in general cars are impounded if (1) the person is arrested, (2) the driver has no driver's license, and (3) the vehicle is not registered.

Commander Puccinelli reported on the Patrol Special Officers program. Commander Puccinelli stated the program is where a private citizen can purchase an area, called beats, where they can seek customers to provide private security. The Patrol Specials are allowed to wear a uniform and carry a

weapon. There are 23 patrol special officers operating 30 beats, 18 assistant patrol specials who work for one of the 23 patrol special officers.

Commissioner Veronese asked for a list of names and owners of beats.

Commissioner Chan asked who defines boundaries. Commander Puccinelli stated that they are defined per the sale contract of each beat.

Captain O'Leary reported on the responsibilities of the Risk Management Unit which supervises the Management Control Division (MCD), EEO Unit, and Legal Division. He stated there are 10 cases within the 90 days of the statute of limitation, seven are currently being investigated by MCD, and three are on hold due to criminal investigations.

Commissioner Renne stated that the Commission will not stand for cases not being heard because of the statute of limitation.

Commissioner Sparks requested for a report regarding an overview of the tracking software for disciplinary cases.

PUBLIC COMMENT

Unidentified, regarding Operation Impact, complained about helicopters flying low over the community and stated that she doesn't believe the program is effective.

Mary Bowle, Co-director of Green Earth Alliance, stated concerns regarding chronic violations like overcharging by the SFPD and suggested that the department consult with the community regarding Operation Impact.

Eric Allen stated that he's shocked that there's no advance notice regarding Operation Impact and suggested that the public be notified.

OCC DIRECTOR'S REPORT

a. Review of Recent Activities

Ms. Jean Field, for Director Kevin Allen, commended the Commission for looking into the issue of officer-involved shootings. She stated that, under Chief Fong, the department has been very cooperative in dissemination of information to the OCC. She also stated that the OCC did receive a complaint regarding the shooting of Cammerin Boyd.

Commissioner Keane asked if the OCC were able to get reports generated by the Homicide and MCD investigation. Ms. Field stated that head of the Homicide Unit has forwarded materials to the OCC investigators.

Commissioner Chan asked, of the cases pending with the OCC, how many involved officers response to mental health crisis. Ms. Field stated she will look into it. Commissioner Chan also asked about cases involving language issues and Ms. Field will get that number for the Commissioner.

Commissioner Sparks asked for a detailed outline of the OCC report to be included with the Police Commission agenda and also directed the same request to Chief Fong.

PUBLIC COMMENT:

Mark Schlosberg, ACLU, stated that it's good to hear that the document exchange is going well with the Department and the OCC.

DISCUSSION AND POSSIBLE ACTION TO SET THE LOCATION(S) OF ONE OR MORE OF THE UPCOMING, REGULAR COMMISSION MEETINGS TO BE HELD IN EACH OF THE ELEVEN SUPERVISORIAL DISTRICTS

Commissioner Renne asked Commissioner Orr-Smith to work with Lt. Geeter and the City Attorney's office as far as the schedule and venue for the district community meetings.

Commissioner Sparks commented that last week resolution was passed that meetings be held in public access and facilities other than police stations when possible. It was also suggested that it should be within supervisorial district rather than police districts. Commissioner Sparks stated that in retrospect, because of the concept of community policing, maybe the Commission, at some point in the future, revisit the concept of keeping the meetings in areas other than police stations but revisiting the concept of police districts versus supervisorial districts relative to the concept of community policing, relative to the concept to the Captain of the station having a better idea and better relationship with the community and using those boundaries as opposed to supervisorial district. Commissioner Sparks suggested that if the Commission set future meetings, that the Commission look at possibly 1, 2, or 3 using supervisorial district as a pilot program and see how it works. And if it is not as effective then the Commission revisit the subject of whether the meeting should be within the jurisdiction of a police district or within the jurisdiction of a supervisorial district.

Commissioner Renne mentioned about having a joint meeting with the Housing Authority.

PUBLIC COMMENT:

Eric Allen stated that the idea of getting out in the community is a great idea. He also suggested that with supervisorial district meetings to invite supervisors of the different districts.

Motion to continue this item for one week. Approved 7-0.

COMMISSION ANNOUNCEMENTS

a. Notice of reassignment of pending disciplinary cases:

RESOLUTION NO. 41-04

REASSIGNMENT OF PENDING DISCIPLINARY CASES

RESOLVED, that the following pending disciplinary cases are reassigned to the following Commissioners:

Commissioner Douglas Chan
- Sergeant Gregory Breslin (File No. C02-256 SCM)
- Sergeant Michael Moran (File No. C02-257 SCM)
- Inspector Peter Siragusa (File No. C02-258 SCM)
- Inspector James Zerga (File No. C02-259 SCM)
- Officer Jeffrey Aloise (Appeal) (File No. M-DRA D03-338)
- Officer Steven Redd (File No. C03-262 JWA)

Commissioner Peter Keane
- Sergeant Sherman Lee (File No. CCL 03-147)
- Sergeant Walter Cuddy (File No. CCL 03-146)
- Officer Marcial Marques (File No. CCL 03-148)
- Officer Nicholas Bettencourt (File No. CCL 03-144)
- Officer Adam Choy (File No. CCL 03-147)
- Officer Gary Hazelhofer (File No. C03-118 JWA)
- Officer Reynaldo Vargas (File No. C03-302 EFG)

Commissioner Joe Marshall
- Officer Benjamin McAlister (File Nos. C00-281 JWA, C02-214 JWA, C02-213 JWA)

Officer Robert Ramos (File No. C04-026 JWA)
Officer Laurence Barker (File No. C02-128 JWA)

Commissioner Gayle Orr-Smith
Officer Michael Reesink (File No. C03-004 JWA)
Officer Michael Maxwell (File Nos. C03-241 JWA, C04-032 JWA)
Inspector Marvetia Richardson (Appeal) (File No. M JWA D02-140)

Commissioner Louse Renne
Inspector Kevin Whitfield (File No. C03-247 JWA)
Officer Bernard Sullivan (File No. C04-045 JWA)
Officer Michael Toropovsky (File No. C03-362 JWA)

Commissioner Theresa Sparks
Officer Phillip Gonzalez (File No. C04-018 EGF)
Officer Mark Stull (File No. C01-032 JWA)
Sergeant Eugene Yoshii (File No. C03-190 JWA)

Commissioner Joe Veronese
Officer Michael Celis (File No. C03-119 JWA)
Officer Michael Tongsing (File No. C03-094 JWA)
Officer David Lee (File No. C03-097 JWA)

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

b. Notice of assignment and setting of date for hearing on disciplinary charges filed against Officer Terry Y. Huey, Taraval Station (File No. EGF C04-060)

RESOLUTION NO. 42-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR HEARING ON DISCIPLINARY CHARGES FILED AGAINST OFFICER TERRY Y. HUEY, TARAVAL (FILE NO. C04-060 EGF)

WHEREAS, the assignment of a Commissioner and setting of a date for hearing on disciplinary charges filed against Officer Terry Y. Huey, Star No. 1173, Taraval, was called it having been set for this date; and

WHEREAS, Commissioner Joe Veronese is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Terry Y. Huey; therefore be it

RESOLVED, that Commissioner Joe Veronese is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Terry Y. Huey, and is to be set at a later date.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

c. Identification of items for consideration at future Commission meetings

Commissioner Chan inquired about response by officers to mental health crisis. Commissioner Chan drafted a resolution and asked that this item be place on the agenda at an appropriate time. He suggested that the Commission hold a public hearing to inquire as to the state and capacity of the Department's policies and practices for responding in mental health crisis including language access.

Commissioner Orr-Smith requested vehicular shootings and firearms policy with respect to when officers are able to discharge their weapons and under what circumstances.

Commissioner Sparks asked if general public comment for items that are not on the agenda be moved to the beginning of the agenda so that the public could have a time in which to come in and make comments particularly for items that are not on the agenda.

Commissioner Veronese would like to meet with the district attorney to resolve conflict of police investigating police. He would also like to have discussion as far as the city's preparedness to natural disasters and terrorists attack. He also suggested that the Commission visit the Academy and the Office of Emergency Services.

Commissioner Marshall would like to have a discussion regarding training for officers both inside and outside the Academy and training that continue once they are officers.

Commissioner Orr-Smith would like to hear about outreach strategy used by the OCC as far as how the OCC educate the community about the resources and how such strategy can be enhanced to make sure that more people do know more about the OCC.

Commissioner Chan inquired about the status of the deployment of the extended range impact weapon and the number of times it's been used if in fact deployment has been completed.

Commissioner Renne asked about legal cases that affect the Commission and the Department and asked the City Attorney to schedule a closed session where the Commission can be informed of the major cases that are pending against the Department and the Commission.

Commissioner Sparks also would like a presentation as to the process in which people are promoted in the SFPD specifically sergeant to lieutenant. She requested a presentation as to how it is administered and whether or not the process changes from time to time and just a basic overview of the process.

APPROVAL OF THE MINUTES OF THE POLICE COMMISSION MEETING OF MAY 5, 2004

Commissioner Sparks asked that the minutes be more of a narrative to include, for example, questions asked by the commissioners.

Motion by Commissioner Sparks to continue the minutes for next week, second by Commissioner Orr-Smith. Approved 7-0.

PUBLIC COMMENT

Daniel Paez talked about the shooting of Mayor Moscone and proposed no death penalty in San Francisco. He also stated that he admires District Attorney Kamala Harris.

John Kumes talked about an incident on Broadway and Montgomery and how he was shoved by police during an incident. He stated people should be given time to disperse.

Sharon talked about a joint meeting with the Housing Authority and suggested that the Police Commission get established first before meeting with the Housing Authority. She also discussed concerns regarding 100 plus pending homicide cases.

Reverend Richardson suggested focusing on the youth and to get them involved with the community and asked that a representative from the Commission attend a ministry meeting.

Eric Allen commended the Commission and Commissioner Keane for comments that reflects the community's concerns and asked that public comment not be moved to the beginning of the meeting.

Sergeant Michael Serujo, Latin Peace Officers Association, talked about Latin representation with the Command Staff and is looking forward in the future

for representation with the Police Commission.

Thereafter, the meeting was adjourned at 9:10 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

SAN FRANCISCO POLICE COMMISSION AGENDA

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REGULAR MEETING
WEDNESDAY, MAY 19, 2004
5:30 p.m.

NEW LOCATION
CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

LT. EDWARD GEETER
Secretary

Pledge of Allegiance; Roll Call

1. Discussion of the Police Department's response to ACLU's May 11, 2004 request for public records relating to: 1) the shooting of Cammerin Boyd; and 2) the recent California Highway Patrol Enforcement Program (DISCUSSION ONLY)

2. Discussion and possible action to amend Department General Order 8.11, "Officer Involved Shootings," to delete section II(F)(5), which reads as follows: "No report that is made public shall disclose the officer's identity or any other information deemed confidential by law." (ACTION ITEM)

3. Chief's Report (DISCUSSION ONLY)
   a. Scheduling of reports requested by individual Commissioners at the May 12, 2004 Police Commission meeting.

4. OCC Director's Report (DISCUSSION ONLY)
   a. Review of Recent Activities

5. Discussion and possible action to set the location(s) of one or more of the upcoming, regular Commission meetings to be held in each of the eleven Supervisorial Districts. (ACTION ITEM)

6. Commission Announcements (DISCUSSION ONLY)
   a. Notice of assignment and setting of date for hearing on disciplinary charges filed against Patrol Special Officer Calvin C. Wiley (File No. H04-057 JWA)

   b. Notice of assignment and setting of date for hearing on disciplinary charges filed against Officer Anthony D. Nelson (File No. C04-074 EGF)

   c. Possible date and location of upcoming Police Commission training on state and local laws and Police Department policies pertaining to public safety officer discipline.

   d. Identification of items for consideration at future Commission meetings.

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MAY 19, 2004
5:30 p.m.

NEW LOCATION
CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

LT. EDWARD GEETER
Secretary

7. Approval of minutes of the Police Commission Meeting of May 5, 2004 (ACTION ITEM)

8. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The Commission will hear public comment on all agenda items before or during discussion of the item. Public comment is limited to three minutes for individuals and five minutes for representatives of organizations.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

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(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-5163; E-MAIL: Donna Hall@ci.sf.ca.us. COPIES OF THE SUNSHINE ORDINANCE CAN BE OBTAINED FROM THE CLERK OF THE SUNSHINE TASK FORCE, THE SAN FRANCISCO PUBLIC LIBRARY, AND ON THE CITY'S WEBSITE AT www.ci.sf.ca.us/bdsupvrs/sunshine

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Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics.

SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A **sound enhancement system** will be available on request at the proceeding.

Meeting agendas and other print materials will be made available in **alternate formats** (computer disk, cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products.

The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

Minutes

MAY 19, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton Goodlett Place, San Francisco, at 5:40 p.m., in a Regular Meeting.

PRESENT: Commissioners Renne, Orr-Smith, Sparks, Chan, Veronese, Keane

ABSENT: Commissioner Marshall
(Commissioner Marshall arrived at 9:40 p.m.)

Commissioner Renne welcomed the audience and explained the absence of Commissioner Marshall.

DISCUSSION OF THE POLICE DEPARTMENT'S RESPONSE TO ACLU'S MAY 11, 2004 REQUEST FOR PUBLIC RECORDS TO 1) THE SHOOTING OF CAMMERIN BOYD AND 2) THE RECENT CALIFORNIA HIGHWAY PATROL ENFORCEMENT PROGRAM

Mark Schlosberg, ACLU, would like to reserve public comment until hearing the department's response.

Captain O'Leary, Risk Management, discussed the public records request by the ACLU. The department will response to three specific items: (1) All police reports, witness statements, use of force reports, video recordings, all records of police communications, including audiotapes and computer records of communications between police, dispatch, the public, and/or other law enforcement agencies, and records of computer communications and computer assisted dispatch computer entries generated by the Department in relation to the shooting of Cammerin Boyd on May 5, 2004 and the disclosure of the names of the officer involved in the shooting; (2) A copy of the coroner's report for Cammerin Boyd, and (3) All documents related to the planning and execution of the CHP enforcement program including but not limited to any agreement between the CHP and the San Francisco Police Department regarding the program; communications between the CHP AND SFPD related to the program; data documenting the quantity, quality, and outcome of CHP stops; documents sent to the Police Commission regarding the CHP program; documents sent to community organizations or leaders regarding the CHP program; documents sent to the Mayor or Board of Supervisors regarding the CHP program.

Captain O'Leary talked about the first request. He explained that public records act requests come on a daily basis and have to be responded to within 10 days. Captain O'Leary stated that in preparing for this request, he met with the two homicide investigators, met with their Lieutenant, met with the Captain of Investigations, and the Deputy Chief of Investigation to come to an understanding as to whether or not these documents should be released. The department declines to release the documents at this time because the release of the documents would compromise the investigation.

Commissioner Keane asked why would the release of the documents compromise the investigation. Captain O'Leary stated because it is a criminal investigation that involves the names of witnesses, the names of the officers involved in the investigation, and statements and information given to the Police Department by witnesses and officers. The investigation is not complete at this time. The release of information could compromise that investigation if it becomes public knowledge at this time. Captain O'Leary stated that the department is not declining the release forever. The department is basing its decision not to release this information until the homicide investigation is submitted to the District Attorney's office.

Commissioner Keane asked when will the investigation be submitted to

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the District Attorney's office. Captain O'Leary stated that he spoke to the investigator in charge of the case and the investigator stated that he believes this could occur in 60 days.

Commissioner Keane asked how much weight was given to public interest in getting governmental information and not perceiving the governmental department as engaging in secrecy and therefore causing public mistrust. Captain O'Leary stated it was given a lot of weight as to the confidentiality of the statements given to the Department by the witnesses

Commissioner Sparks stated there are 12 different items on the list. Commissioner Sparks asked if the Department cannot release any of that information including the police report, statements were made by members of the department which described parts of possibly the police report? Commissioner Sparks stated that some of the information is more important to the investigation than others and some would have a greater compromising effect than others. She asked if some information can be release and if it could be released in stages? Captain O'Leary stated that per the Government Code, if the information is part of an open and active law enforcement investigation, and if disclosure would endanger the successful completion of that investigation, the Department has a right, an act of discretion, not to release the information. He further stated that that's the exception to the public record act. All documents are public if they are part of an active investigation and their release would endanger the investigation, then the request can be denied. Captain O'Leary further stated that there's an exception to the exception which talks about what it is that should be released no matter what and that information was released by the Department in the form of a press release. Captain O'Leary stated that the Department met the requirements of the law in the release itself.

Captain O'Leary stated there is a document that will be released and that document is the use of force log surrounding this incident.

Commissioner Veronese asked about the press release and asked if the comments made, noted in the ACLU letter, by members of department, are part of police official comments? Captain O'Leary stated no.

Commissioner Veronese would like the commission to look at the policy of the Police Department in issuing comments to the press when an incident like this happens and not to confuse comments that were made to the press with official city policy of actually giving out information. Captain O'Leary stated there are General Orders that guides the Department in these matters.

Commissioner Veronese asked about the public record act requests. Captain O'Leary stated all requests are treated the same but a homicide, which is a very serious issue, a lot of thought are put into the response which includes the input from the inspectors assigned to the case.

Commissioner Orr-Smith stated that the release of names of the officers involved could be done without disclosing police documents that would reveal witnesses names. Commissioner Orr-Smith asked how was that decision handled as far as releasing the names outside of the documents and evidence. Captain O'Leary stated he went to the inspector assigned to the case and specifically asked him if the release of the names of the officers involved in the shooting hinder or compromise the investigation of the case. The investigator said yes. The investigator requested that the names not be released by May 21st and the investigator stated that he needed at least two weeks and releasing the names earlier will compromise investigation and that it would inhibit secondary interviews of the officers. It could effect any photo spread that the department intends to use that would include photographs of the involved officers for the witnesses to review. It would inhibit an unbiased witness statement. He believed that the release of the names would affect the district

attorney's investigation, and he has cause for concern for the officers' safety. The Department's response is not at this time but do intend to release the names after consultation with the Homicide Detail, the Captain, and the Deputy Chief of Investigations.

Commissioner Orr-Smith asked if the district attorney's investigation might be completed in two weeks. Captain O'Leary declined to answer for another department.

Commissioner Chan asked concerning witness statement: how many witness statements compiled at this point? Captain O'Leary stated he reviewed the case file but didn't count the number of witness statements. Commissioner Chan asked if any witnesses are confidential informants? Captain O'Leary stated that it would be improper for him to answer that question. So as not to jeopardize the successful completion of the investigation. Commissioner Chan asked if the use of force report has been released? Captain O'Leary stated the use of force log report is a public document and will be released in a redacted form.

Commissioner Chan asked what is the time table for that release? Captain O'Leary stated 10 days from date of the request.

Captain O'Leary stated he kept his review of the documents to a minimum so as not to endanger the successful completion of the investigation. The public's right to know is important and the government's interest in completing the investigation is important and the department is balancing those interests. The Department's position is not at this time to most of the request.

Commissioner Chan asked by when can this item be release? Captain O'Leary stated that the homicide investigator stated that he expects to forward the investigation within 60 days. He asked for two weeks when it came to the release of the name of the officers (2 weeks from Monday, May 17th).

Captain O'Leary discussed the third part of the request which was in regards to Operation Impact. The documents will be included in the Department's response. As to some documents generated by the CHP, the CHP requested that the ACLU ask them directly for the documents.

Commissioner Orr-Smith asked Captain O'Leary if it is the Department's intention to respond to ACLU to request an extension? Captain O'Leary stated that the Department intends to answer the request.

Commissioner Renne stated that if Department intends to release a response within 60 days and if the Department intends to release the names within 15 days that it might be a simple procedure to just ask for a request of extension of time.

Commissioner Veronese stated that Chief Fong and the Mayor went out of their way to promote the witness protection program. He stated that he wants to make sure that anything that the Commission does does not interfere with that effort to get witnesses out to solve these homicides that are happening. Is there anything within the policy that protects witnesses from the disclosure of their names. Captain O'Leary stated yes.

Commissioner Keane asked about releasing the names of officers but not until May 21st? Captain O'Leary stated the names will be released. The deadline for responding to this public records act request is May 21st. The Department does not intend to disclosed the names of the officers in its response on May 21st. He stated he spoke with the homicide investigator and asked him would releasing the names of the officers involved compromise the investigation. The investigator stated yes. He needed two weeks. The Department intends to release the names of the officers involved in this investigation and it will occur two weeks from Monday, last Monday.

Commissioner Keane asked about material from the California Highway Patrol that is in possession of the Department relating to this case? Why not just give the ACLU the information? Captain O'Leary stated that the CHP documents is in regards to Operation Impact and not the shooting.

Commissioner Sparks asked about General Order 8.11. Captain O'Leary stated that General Order 8.11 deals with the summary of investigation and that the identity of the officers will not be revealed. He further stated that there are officer-involved shootings that are accidental, some are the Cammerin Boyd shooting. He explained the summary of investigation and we're saying these are the facts surrounding this officer- involved shooting and that sentence says the identity of the officer shall not be in that report and it only talks about that report. Captain O'Leary explained that there is a difference in the summary that is given to the Commission by the Chief of Police.

PUBLIC COMMENT:

Mark Schlosberg, ACLU, discussed why the request was made and why he's seeking the documents in a rapid manner. He talked about statements made by members of department. He stated the statements do cast the investigation in a certain light. This request made in context of history of department not releasing information. That practice needs to end. He stated that the ACLU has no intention of interfering with any criminal investigation and feels that investigation be completed. With regard to names of officers, grant extension within 2 weeks from last Monday. He also asked that deadlines be set for release of information and calendared as an agenda item.

Malaika Parker, Bay Area Police Watch, stated that two-week time period is too long to wait for family members who was killed by police. She stated the community has a right to know if the officers have prior records and demands the Department to release documents to the public.

Marylon Boyd, mother of Cammerin Boyd, wanted to reiterate support for commission to ask tough questions to find out what happened. She stated that a mother should not be kept in dark about the process of the investigation. She stated that she is entitled to know who did the shooting and sees no reason why information should not be released to the public.

Jakata Imari, spokesperson for Boyd family, discussed concerns about information not being released.

Isa Gonzalez, Kamika Boyd, mothers of Cammerin Boyd's children, discussed concerns on how hard to explain to children what happened because no information was released. As family members they deserve to know who the officers are to have peace.

Mark Solomon, SF Green Party, questioned what General Order allows department press release and asked if records can be released as far as officers involved.

Leroy Moore, Advocate for People of Color who has Disabilities, talked about research as far as disabled victims killed by officers. He mentioned cases from Oakland and Los Angeles.

Ismael Vargas, Youth Commission at City Hall, talked about meeting at Southeast Community Center and stated how the Youth Commission came up with solutions for police accountability and stated that if you want young people to be leaders treat them with respect.

No further discussion.

DISCUSSION AND POSSIBLE ACTION TO AMEND DEPARTMENT GENERAL ORDER 8.11, "OFFICER INVOLVED SHOOTINGS," TO DELETE SECTION II(F)(5), WHICH READS AS FOLLOWS: "NO REPORT THAT IS MADE PUBLIC SHALL DISCLOSE THE OFFICER'S IDENTITY OR ANY OTHER INFORMATION DEEMED CONFIDENTIAL BY LAW"

Lieutenant Pardini, Planning Division, discussed his duties as publisher

of the General Orders and gave an overview of the process for revision of General Orders. He stated that here has been a revision of 8.11 that was generated by the Homicide Detail, Management Control Division, and the Risk Management Unit.

Commissioner Renne asked when a pre draft copy of 8.11 can be released? Lieutenant Pardini stated in the next 60 days depending on the decision of item two tonight. He further explained the revision process which is covered in General Order 3.01 . He stated a draft is made then sent out to the deputy chiefs as well as Legal and then sent to each deputy chiefs for review and they determine if it is acceptable then it is sent to the POA as part of meet and confer, as per MOU between the Department and the POA, then it is forwarded to the Commission for public comments, if not approved, then the proposed draft then goes back to the Chief of Police upon review then forwarded to the Commission for approval.

Commissioner Keane asked about the revision by the Commission revising its own general order, does it have to go through all of the steps described? Lieutenant Pardini stated that what he described is a routine procedure.

Commissioner Chan asked if the role of the Commission outlined in the MOU? Lieutenant Pardini stated that ultimately it will come before the Commission but it is a slow process due to the meet and confer process.

Commissioner Sparks asked what would be the process if the Commission changes its own general order. Lieutenant Pardini stated that, absent from the City Attorney's office telling the Department that change can't be made for some legal reason, if the Commission ordered a change, the Department will comply with the directive to make the change.

Commissioner Veronese asked the City Attorney if it is within the power of the Commission to change the wording of Section II(F)(5)? City Attorney Morley stated the provision of state law that makes confidential the peace officers' personnel record, which include records of investigations, administrative investigations of the conduct of police officers is 832.7 of the Penal Code.

Commissioner Veronese asked is an officer's identity deemed confidential by law and if so, is 832.7 that law? Ms. Morley stated that 832.7 is the statute to which this portion of the general order was directed. What is confidential in 832.7 is the peace officers personnel record and often, a police department will release information about an occurrence without including the officer's identity. Revelation of an officer's name and an investigative report from an administrative investigation of the officer could in certain circumstances violate 832.7. It is a case by case basis whether release of certain information, including an officer's identity, would violate the statute.

Commissioner Keane stated that his intended motion to amend this section is to strike the words "officer's identity or" and then the word "other," which would change that section that section to read "No report that is made public shall disclose any information deemed confidential by law."

City Attorney Morley stated that in reading the particular section of the General Order 8.11, it is directed towards two reports. Subsection 2(F) which is entitled Review and there's some steps laid out for review of an officer-involved shooting. Item 1 requires the Chief of Police to prepare a summary report of the MCD investigation and to make that public. Item 3 requires the OCC Director to review the MCD report and the Chief's summary and to make a report which is also made public. She stated the way she read line 5, it would apply to those two reports and she doesn't see any problem with amending line 5.

Commissioner Renne explained that in the previous item the Commission was talking about whether the Department should release the identity of persons involved in an officer-involved shooting whether or not the public records request requires that or whether is a matter of discretion. That question has nothing to do with the question of whether or not the Commission modifies this general order because Section 5 is saying what cannot be in a written report of an investigation which the Commission will ultimately get and that is no information that's deemed confidential by law. So there are two different situations. City Attorney Morley stated that is correct. She further stated that the documents, as Captain O'Leary presented it that were responsive to the ACLU's public record act request were documents that were contained in the Homicide investigatory file. She explained that what these reviews talk about is once that investigation is done and MCD does its mandatory investigation of an officer-involved shooting that involves bodily injury or death, then the Chief of Police looks at it and the process of presenting of summary reports of an administrative investigation and it is in that context that 832.7 would apply because then a peace officer's personnel record is talked about.

Commissioner Sparks asked if there is another general order that specifically prohibits the release of an officer's name in such incident other than referenced in paragraph 5? Lieutenant Pardini stated no other general orders contain information about restricting the identity of police officers.

Commissioner Orr-Smith suggested that the Commission starts at square 1. How would we write a new general order to warrant restricted policy? The Commission should look at creating something new to provide facility that provides disclosure of information. Can we come up with something and create something new. City Attorney Morley stated that that could be part of a revision of the general order. She stated that the Commission can proceed to direct the Department to come back with a draft general order or ask the city attorney for assistance in drafting a new general order, or the president can ask one of the Commissioners to work with the department in putting together the general order. It would then come to the whole Police Commission for review and approval.

Lieutenant Pardini stated there is a draft under construction and absent any legal constraints, this could be addressed. There is a product in the works, identify any areas not in construction, identify ideas, and go through process.

Commissioner Veronese asked where is this product and how far along the lines of the process is it? Lieutenant Pardini stated it is in the meet and confer process, then city attorney for review, then the Chief, then calendared for the Commission.

PUBLIC COMMENT:

Malaika Parker discussed officer's safety and stated they just want justice, no matter which side they're on.

Mechelle Shepard, aunt of Cammerin Boyd, discussed concerns regarding statements by Commissioner Veronese as far as tension is high in the community. She stated the community is scared of the police and the community needs protection not the officers.

George Sheiman, Northbeach resident, discussed concerns.

Marylon Boyd discussed concerns regarding change of general order. She stated she supports Commissioner Keane's interpretation that it is a policy developed by commission without input of meet and confer. Release of names was a matter of discretion.

Mark Schlosberg urged the Commission to take action tonight and asked that disclosure of names be placed as an agenda item.

Gary Delagnes, President POA, discussed concerns of the community calling officers criminals, thugs, and murderers and asked if the Commission not governed by the MOU. Commissioner Renne explained the proposed

amendment is simply a statement of the law. This is a statement of the law so it does not required a meet and confer. Ms. Morley agreed.

Edward Shepard, uncle of Cammerin Boyd, stated the family simply wants the facts and asked the officers be identified.

Eric Allen stated that he agrees with Commissioner Keane to remove five words. He stated that he's heard comments about the issue of safety but it seems to be about bashing cops and lawsuits and getting headlines for a cause.

Marylon Boyd, mother of Cammerin Body stated that this is about Cammerin Boyd's life and not a lawsuit.

Kevin Neffs discussed concerns about biased in the media in stating that it was a justified shooting and stated that the investigation should take time.

Commissioner Keane made a motion to move to amend Department General Order 8.11, paragraph F(5) and make it to read "No report that is made public shall disclose any information deemed confidential by law." Second by Commissioner Orr-Smith. Motion passed 6-0.

RESOLUTION NO. 43-04

AMENDMENT OF DEPARTMENT GENERAL ORDER 8.11, "OFFICER INVOLVED SHOOTINGS,"

RESOLVED, that the Police Commission amends General Order 8.11, "Officer Involved Shootings," Section II(F)(5) to read, "No report that is made public shall disclose any information deemed confidential by law."

AYES: Commissioners Renne, Chan, Orr-Smith, Keane, Sparks, Veronese
ABSENT: Commissioner Marshall

(The Commission took a 10-minute break at 8:30 p.m. and reconvened at 8:40 p.m.)

CHIEF'S REPORT

a. Scheduling of reports requested by individual Commissioners at the May 12, 2004 Police Commission meeting.

Chief Fong addressed the Commission and updated the Commission regarding the press conference that occurred this afternoon in order to seek out assistance of media and the public regarding homicides. Chief Fong stated a homicide occurred midday in a very very busy area of town and video tapes were obtained from the public that clearly shows vehicles and individuals involved in the crime. This was an outreach to the media and stated that if the Commission would like to see the tape, it can be provided.

Chief Fong talked about reports requested by the Commission and gave a list of dates and times for subject to be placed on agenda:

May 26, 2004, presentation that covers vehicular shooting, firearms policy, and deployment of extended range weapon policy;

June 2, 2004, an overview presentation on the Department's preparedness for incidents of terrorism and natural disasters.

June 16, 2004, regarding training in the area of diversity training.

Chief Fong explained that there is no presentation scheduled for June9, 2004 due to the biotech conference as Moscone Center.

June 23, 2004, presentation regarding department's response to metal health illness cases.

June 30, 2004, presentation on the disciplinary tracking system.

Commissioner Orr-Smith asked about training in response to mental health illness cases. Chief Fong stated in terms of mental illness training it will be the training the officers are receiving in regards to crisis intervention, this is a 40- hour course. Commissioner Orr-Smith asked for information about the

department's training for dealing with disabled people, mentally and physically disabled people.

Commissioner Sparks asked for a report regarding the Department's promotional process? Chief Fong that will be scheduled in the future.

Commissioner Orr Smith thanked the Chief prompt response to homicide. Commissioner Orr-Smith asked about the program that allowed guns to be turned in. Chief Fong stated it was a Department's special project that was done periodically. She stated that the Department is in that process not to have huge gun buy back, but to put out to the public to surrender weapons, the Department will accept. What the Department wants to do, given the resources, is to focus on what causes violence in community.

PUBLIC COMMENT:

None

OCC DIRECTOR'S REPORT

a. Review of Recent Activities

Mr. Kevin Allen, OCC Director, asked for clarification as far as the number of cases involving mental health issue. Commissioner Chan stated he is only interested in current open cases. Director Allen stated there were incidents but the OCC has not received any complaints but there are currently two cases.

Director Allen stated language barriers, in year 2000 four cases involved language barriers. He stated the OCC has received 22 complaints in Spanish, 2 Russian-speaking individuals, 15 Cantonese-speaking individuals, 3 Tagalog-speaking individuals just in this last year. He stated the OCC is working to revised bulletins to make process of making complaints easier for non-English speaking individuals.

Commissioner Sparks stated she attended a community meeting on Friday and outreach to the OCC was discussed. Commissioner Sparks suggested putting on the agenda the OCC outreach to allow for public input. Commissioner Sparks suggested the it be put on the calendar as soon as possible.

Director Allen talked about several policy recommendations for consideration. One that involves giving of names of involved parties to families and asked the Commission to please take that into consideration for the new general orders that are coming up and asked that the OCC be part of the process when policy changes occur.

PUBLIC COMMENT

Mark Schlosberg discussed policy recommendations issued last year. He urged the Commission to request OCC Director and the Department to report to the Commission if policy recommendations have been adopted.

John would like to invite OCC Director to critical mass ride. He stated that generally speaking police performance has been well and be he will be carrying OCC complaint forms on rides and that he will be taking badge numbers down.

DISCUSSION AND POSSIBLE ACTION TO SET THE LOCATION(S) OF ONE OR MORE OF THE UPCOMING, REGULAR COMMISSION MEETINGS TO BE HELD IN EACH OF THE ELEVEN SUPERVISORIAL DISTRICTS

Commissioner Orr-Smith researched about whether or not to have community meetings, last meeting of the month, out in the community.

Commissioner Orr-Smith stated the Commission might consider to have district police stations because supervisorial district will politicize the process or invoke the appearance that the Commission as serving the Board. Commissioner Orr-Smith also stated that some of the police districts and the supervisorial district overlap to a degree that doing it by police district will provide better community representation. Another consideration was where to have them. Commissioner Orr-Smith stated that community would prefer to have the meeting in a community venue as opposed to district stations. However, one of the serious considerations is the ADA requirements. Commissioner Orr-Smith also stated that holding community meetings by district on public housing as a community venue to consider. Based on input from public comments, discussion with the city attorney, and community advocates, Commissioner Orr-Smith recommends to hold the last meeting of each month in one of the police districts. This is an opportunity to get to know the Captains in every district as well as the officers. Commissioner Orr-Smith recommends that it be done by Police Districts and prioritized holding the meeting in a community venue where possible in the last meeting of every month. First meeting in Bayview district, June 30th, meeting in the southeast community facility. Prior Commission had in fact made a commitment to the Ingleside and she suggests doing the next meeting in July in the Ingleside. Subsequent meetings, drawn by lots for an objective selection.

Commissioner Sparks stated that one of the reasons to have meetings in supervisorial district because general public has a better idea of supervisorial boundaries and that there might be better participation with the supervisor in the area. Commissioner Sparks suggests, if possible, try one or two meetings as a trial basis and then revisit this matter in 4 or 5 months as to whether or not the Commission would want to set a firm policy. Commissioner Sparks prefers that the order of appearance be in order of activity in the different community.

PUBLIC COMMENT

Eric Allen supports Commissioner Sparks to go by supervisorial districts and supports Commissioner Sparks as to do it temporarily to see how it works out.

Commissioner Renne stated the first 3 months, June 30th at the Southeast community facility, July in the Ingleside, next Western Edition and in July revisit where to go after that.

Commissioner Orr Smith entered a motion to hold community meetings, last week of every month, determined by police districts and prioritized having meetings in a community based setting wherever possible based on accommodating ADA considerations, and the first meeting would be June 30th in the Bayview Station, at the Southeast Community facility, next in Ingleside at a community-based setting on the last Wednesday in July and August in the in Park Station, community venue in the Park District the last Wednesday of August. In July time will set schedule for the following next 3 months. Second by Commissioner Veronese. Motion passed 6-0

RESOLUTION NO. 44-04

SETTING THE LOCATION(S) OF ONE OR MORE OF THE UPCOMING, REGULAR COMMISSION MEETINGS TO BE HELD IN EACH OF THE ELEVEN SUPERVISORIAL DISTRICTS

RESOLVED, that the Police Commission will hold community meetings, on the last week of every month, determined by police districts, and prioritized having meetings in a community-based setting whenever possible, based on accommodating ADA considerations.

FURTHER RESOLVED, that the first meeting would be on June 30, 2004 in the Bayview District, at the Southeast Community facility; the last

Wednesday in July in the Ingleside at a community-based setting; and the last Wednesday in August in the Park District at a community-based venue. In July, the Commission will set the schedule for the following three months.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Sparks, Veronese
ABSENT: Commissioner Marshall

COMMISSION ANNOUNCEMENTS

RESOLUTION NO. 45-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR HEARING ON DISCIPLINARY CHARGES FILED AGAINST PATROL SPECIAL OFFICER CALVIN C. WILEY, INGLESIDE (FILE NO. H04-057 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date for hearing on disciplinary charges filed against Patrol Special Officer Calvin C. Wiley, Star No. 2684, Ingleside, was called it having been set for this date; and

WHEREAS, Commissioner Douglas Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Patrol Special Officer Wiley; therefore be it

RESOLVED, that Commissioner Douglas Chan is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Patrol Special Officer Calvin C. Wiley, and is to be set at a later date.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Sparks, Veronese
ABSENT: Commissioner Marshall

RESOLUTION NO. 46-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR HEARING ON DISCIPLINARY CHARGES FILED AGAINST OFFICER ANTHONY D. NELSON, SOUTHERN (FILE NO. EGF C04-074)

WHEREAS, the assignment of a Commissioner and setting of a date for hearing on disciplinary charges filed against Officer Anthony D. Nelson, Star No. 2039, Southern, was called it having been set for this date; and

WHEREAS, Commissioner Peter Keane is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Anthony D. Nelson; therefore be it

RESOLVED, that Commissioner Peter Keane is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Anthony D. Nelson, and is to be set at a later date.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Sparks, Veronese
ABSENT: Commissioner Marshall

PUBLIC COMMENT

Alexis Ross discussed concerns regarding Officer Nelson's misconduct.

POSSIBLE DATE AND LOCATION OF UPCOMING POLICE COMMISSION TRAINING ON STATE AND LOCAL LAWS AND

POLICE DEPARTMENT POLICIES PERTAINING TO PUBLIC SAFETY OFFICER DISCIPLINE

Commissioner Sparks discussed date of training to be held at City Hall on May 27, 2004, at 4:30 in the afternoon. She stated this will be a 3- hour training. Commissioner Sparks asked City Attorney Morley if this would require longer notification. Ms. Morley stated no longer notice is required.

Commissioner Sparks also discussed a 2-day course for the new Commissioners on various issues She stated it is worth while to look at this and possibly doing it in one day, on a Saturday, and go to the academy to do training.

PUBLIC COMMENTS

None

IDENTIFICATION OF ITEMS FOR CONSIDERATION AT FUTURE COMMISSION MEETINGS

Commissioner Keane asked for the report regarding list of names and that it be done two weeks from this past Monday, and that would be on June 2nd to have on the calendar. Also sometime in the future to set a date an overall review of that general order already in process.

Commissioner Orr-Smith review of OCC Outreach Plan for June 9th.

Commissioner Sparks would like the OCC to present a 5-year summary of policy recommendations to the Department and as part of that to include which ones are accepted by the department and which ones are not. Commissioner Sparks also would like to discuss an overview on authorization to open substations, the operation overview, also the staffing overview, on when a substation is open, how staffing is determined. Commissioner Sparks also would like to discuss putting public comment not on the agenda at the beginning of the agenda.

Commissioner Veronese would like to look at General Order 8.09, I(A), which addresses comments made to the media.

PUBLIC COMMENT

Mark Schlosberg, ACLU, suggests picking dates for all of issue discussed so public knows when it will be discussed.

Commissioner Renne go through all requests to set dates by next weeks meeting. Also would like to have a Closed Session with city attorney to discuss cases that are coming up soon.

APPROVAL OF MINUTES OF THE POLICE COMMISSION MEETING OF MAY 5, 2004

PUBLIC COMMENT

None

Commissioner Sparks thanked Lieutenant Geeter and his staff for a more complete minutes.

Commissioner Orr-Smith moved to approve the minutes. Second by Commissioner Veronese. Approved 7-0.

PUBLIC COMMENT

None

Thereafter, the meeting was adjourned 9:45 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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MAY 21 2004

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

05-21-04

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MAY 26, 2004
5:30 p.m.

NEW LOCATION
CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

LT. EDWARD CRETER
Secretary

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Pledge of Allegiance; Roll Call

1. Election of President and Vice-President of the Commission. (ACTION ITEM)

2. Discussion and possible action to adopt the fiscal year 2004-05 budget for the Police Department (ACTION ITEM)

3. Discussion and possible action to adopt the fiscal year 2004-05 budget for the Office of Citizen Complaints (ACTION ITEM)

4. Discussion and possible action to approve the recommendation of the Wall of Honor Committee to place the name of Officer Isaac Espinoza on the Hall of Justice Wall of Honor (ACTION ITEM)

5. Chief's Report (DISCUSSION ONLY)
   a. Presentation of a Citizen's Award
   b. Presentation of Quarterly Report of Provision of Documents to the Office of Citizen Complaints (January-March 2004)
   c. Presentation re: Firearms Policy
   d. Presentation re: Extended Range Impact Weapon

6. OCC Director's Report (DISCUSSION ONLY)
   a. Review of Recent Activities
   b. Discussion of OCC Policy Recommendation concerning timely disclosure of information in police matters of public concern

7. Commission Announcements (DISCUSSION ONLY)
   a. Scheduling of those items identified for consideration at future Commission meetings.
   b. Announcement of Police Commission training on May 27, 2004 at 4:30 p.m. in Room B34, City Hall. This training on the state and local laws and the Police Department policies pertaining to public safety officer discipline as required by San Francisco Administrative Code Section 96.8 is open to the public.
   c. Discussion of possible Police Commission training in addition to that required by Administrative Code Section 96.8
   d. Notice of assignment and setting of date for hearing on disciplinary charges filed against Assistant Inspector Wilfredo Gonzalez (File No. C04-082 JWA)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, MAY 26, 2004
5:30 p.m.

LT EDWARD GEETER
Secretary

NEW LOCATION
CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

8. Approval of minutes of the Police Commission Meeting of May 12, 2004 (ACTION ITEM)

9. Public Comments
(Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The Commission will hear public comment on all agenda items before or during discussion of the item. Public comment is limited to three minutes for individuals and five minutes for representatives of organizations.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. The ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE, DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-5163; E-MAIL: Donna.Hall@sfgov.org. COPIES OF THE SUNSHINE ORDINANCE CAN BE OBTAINED FROM THE CLERK OF THE SUNSHINE TASK FORCE, THE SAN FRANCISCO PUBLIC LIBRARY, AND ON THE CITY'S WEBSITE AT www.sfgov.org/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governmental Code §§ 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102.

≡Minutes

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton Goodlett Place, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

(Commissioner Marshall arrived at 5:40 p.m.)

Commissioner Renne requested that the Election of Officers be put over until the arrival of Commissioner Marshall.

DISCUSSION AND POSSIBLE ACTION TO ADOPT THE FISCAL YEAR 2004-05 BUDGET FOR THE POLICE DEPARTMENT

Commissioner Renne stated the Department is still waiting for word from the Mayor's Office regarding the budget, therefore, no action will be taken. The Department will just give highlights of the budget.

Deputy Chief Parra stated that the budget has been submitted but it is still a working document. He introduced Captain James Lynch of the Fiscal Division to highlight points of the budget.

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Captain Lynch gave an overview of the proposed budget for 2004/2005. He stated that the proposed budget for the current fiscal year is approximately $295 million. The proposed budget for fiscal year 2004/2005 is approximately $309 million. The proposal includes the following: Approximately $17M relates to fixed costs increases determined by collective bargaining agreements and projections from other city departments. The proposed budget includes $15M in grant funding in the areas of salary and equipment. The proposed budget is $28.2 M below the current operating budget.

Captain Lynch stated that the Department has worked with the Mayor's office and other city entities to reduce the Department's proposed fiscal year 2004/2005 budget to an amount that is approximately 5.5 percent below the current fiscal year operating budget. Funding reductions in command staff positions, reduction in overtime budget, accelerated expenditure of grant funding as allowed, increase inter-departmental work order agreements for certain dedicated services, and civilianization of certain functions. In spite of these funding reductions, the Department is proposing the hiring of an academy class in the latter part of the year in order to properly staff the city's growing policing needs and to address attrition projections.

The budget also addresses the civilianization of numerous positions within the police department as mandated in the passage of Proposition C. The Department proposes to convert approximately 38 positions currently staffed by sworn members to more appropriate non-sworn classifications.

Captain Lynch stated that funding for the Crime Mapping and Records Management System is based on a combination of grant and general fund support. Many of the new non-sworn positions will be dedicated to the management of these systems. It is the goal of the Department to transition from a paper and pen organization to one that supports officers with modern technological systems.

Captain Lynch stated that, through funding agreements with the Housing Authority and with proposed federal grant funding support, the Department will dedicate specific officers to various housing authority sites.

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The mission of these officers will be to enhance community policing concepts and community-based partnerships to reduce criminal activity and enhance the quality of life in these communities.

Captain Lynch stated that this budget proposal includes approximately $100,000 in funding specifically earmarked for the Department's witness protection program.

In 2004/2005 fiscal year, the Department will implement provisions of the a federal homeland security grant that will include $2M in funding to implement a comprehensive two-day training course for all patrol officers to deal with potential incidents involving chemical and other hazardous agents. This grant will also include approximately $5.3M in related safety equipment that will be deployed throughout the department.

Captain Lynch stated that in light of the current economic situation, this budget proposal represents a calculated evaluation of community service needs and the determination of minimal funding required to provide these services. It is the continued goal of the Department to require strict accountability by all members of this Department to insure that services are provided effectively and efficiently. It is anticipated that the members of this fine organization will rise to this challenge and will accomplish this goal.

Commissioner Chan asked several questions regarding the budget. Captain Lynch stated close to 5.5 percent are from federal contributions. He stated that there are three personnel working in the Grant Unit. Captain Lynch also stated the projected attrition rate was based on retirement packages and stated there's about 60 members in that classification.

Commissioner Orr-Smith asked several questions regarding the budget specifically about the Office of Emergency Services and the Sr. Escort Program which are no longer under SFPD. Commissioner Orr-Smith asked about Program SAFE. Captain Lynch stated that the proposal is approximately a 25 percent reduction of the current SAFE funding and will have an impact but Captain Lynch also stated that all entities within the city are facing the same situation and the Department will just have to do more with less. Captain Lynch also stated that SAFE will continue to be the Department's most active partner in providing community policing and supplemental support.

Commissioner Sparks asked about Homeland Security and asked if there are any federal or state Homeland Security mandates that are unfunded within the budget that comes from general funding rather than a grant or funding from the federal government. Captain Lynch deferred to Sgt. Collins, Grant Unit, to answer the questions. Sergeant Collins stated there is nothing mandated and stated that the Department of Homeland Securities are providing funds for every city in the United States and those cover the programs instituted in San Francisco.

Commissioner Veronese asked questions regarding the budget. Captain Lynch stated that the numbers for the budget are determined by the Controller's Office. Captain Lynch also talked about the academy class currently in place and will graduate on September 10th.

Commissioner Orr-Smith asked about funding of the Witness Protection Program. Captain Lynch stated that there is $85,000 in funding, in cooperation with the Mayor's office, on top of what was currently in there. Captain Lynch stated there is $15,000 currently in for the Witness Protection Program.

In response to the question by Commissioner Chan regarding relocation of the Academy, Captain Lynch stated the facility at Diamond Heights will be

the facility that the Department will stay with and he explained that the Academy is a Regional Training Facility.

Commissioner Sparks asked about the 38 sworn positions that will go from sworn to non sworn. Captain Lynch stated positions that does not required sworn members will be converted to non sworn position.

PUBLIC COMMENT:

None

Commissioner Renne stated there will be no action taken at this time since budget is awaiting word from the Mayor's office.

No action taken.

DISCUSSION AND POSSIBLE ACTION TO ADOPT THE FISCAL YEAR 2004-05 BUDGET FOR THE OFFICE OF CITIZEN COMPLAINTS

Director Allen presented the budget and stated that the OCC budget is intertwined with the Police Department's budget and will not submit the budget for approval tonight. Director Allen stated the OCC budget is about $3M. He stated that $2.4M are for salary, fringe benefits, and overtime. Director Allen stated that most of the budget is based on salary. He stated that they have received a $29,000 reduction in their rent. He also stated that are 15 full time investigators at this time. He stated that there should be one investigation per 100 officers in the force. With the new academy class coming in, the numbers will be very close. There is a 16th investigator's position not filled. He also stated that the absence of policy recommendations analyst is creating a backload of policies pending.

Commissioner Sparks asked about the concerns of Director Allen regarding the OCC budget and asked if Director Allen can fulfill his mandate with the current OCC budget. Director Allen stated that the OCC is dangerously close but stated that the OCC is very dedicated to fulfilling its mandate charges to investigate complaints and write policies but stated that the OCC is falling behind on the policy but the investigators will continue to investigate every case that comes in and the office is working hard to get cases that are sustained to the department within nine months.

Commissioner Sparks asked how much additional money will be required to fully fund the budget. Director Allen stated that to bring the 16th investigator in would help and to take the attorneys back up to full time would help. Director Allen stated that it would take approximately $150,000 to $200,000 just to get the OCC to where its supposed to be.

Commissioner Keane asked several questions regarding the budgetary process for the OCC. Director Allen stated that the budget is determined by the OCC. He further stated that the OCC sends paperwork directly to mayor's office. Commissioner Keane asked if Director Allen has the direct access to the Mayor's office to be able to lobby for funds. Director Allen stated that's That's correct.

Commissioner Keane stated that the credibility of the OCC and the power of it depends on the perception of the public as to OCC being objective and not part of the Police Department. Commissioner Keane stated that in order for Director Allen to advocate on behalf of the OCC is to have the OCC to have an independent status as a department outside of the Police Department. Director Allen agreed to that.

Commissioner Orr-Smith asked about the mediation program. Director Allen stated that the OCC mediates about 12 to 15 cases last year and stated that staff personnel to set up the mediation is needed. He explained that mediations are done by independent volunteer mediators and this is done by an attorney who is working half time and at the same time working on all the sustained cases that are recommended to the Chief's office which makes it difficult. Director Allen stated that the OCC should be able to mediate 60 to 80 cases a year under the current system and stated that the OCC have been working with the Department to set up a mediation program. Director Allen stated that if the OCC can bring the number of investigators up to 16 and bring in another support person to handle just mediation in order to get mediation program to work.

Commissioner Chan asked about the mediation program and asking the BAR association for support. Director Allen stated the State Bar Association has helped in providing the OCC with a list of mediators but unfortunately so much of the work done is confidential and a lot of the work has to be handled within the office.

Commissioner Marshall discussed concerns regarding the OCC's budget. Director Allen stated that the OCC does need more money but if the OCC is its own department, it will give him the opportunity to lobby for its own funding.

Commissioner Orr-Smith asked the City Attorney about the budgets of the OCC and the SFPD being intertwined. City Attorney Morley explained that there is no impediment for the OCC to meet with the Budget Analyst or the Mayor or meeting with the Board of Supervisors to discuss additional funds. She further explained that the situation with the OCC and the SFPD being under one Commission is an unusual situation where you have two department heads working independently but both report to the same commission.

Commissioner Keane stated that the OCC should submit its budget directly to the Mayor's Office and to be able to meet and lobby for funds with the Supervisors as an independent department.

Commissioner Renne asked Director Allen regarding preparation of the OCC's budget. Director Allen said that he prepares the budget and he submits the budget to the Mayor's Office.

Deputy Chief Parra stated that funding for OCC is separate from the Police Department. It comes from a general fun and not from the Police Department's budget and submission of that budget is separate from the Police Department and is not dependant upon the Police Department. The Chief is not counseled by the Mayor's office, or anyone from the Controller's Office, regarding the OCC budget. Once it is approved it falls under the Police Commission and that's why it is attached to the Police Department's budget so that the Commission can maintain its jurisdiction over the Police and the OCC's budget. Deputy Chief Parra explained that the OCC's budget is mandated by the City Charter 4.127, to "fully, fairly, and impartially investigate all civilian complaints of police misconduct against SFPD sworn members; to reach and confidentially report factual conclusions in such cases, and to present statistical reports and policy recommendations on a regular basis to the Police Commission," and that's why the OCC's budget is attached to the Police Department's budget as a special program, but the request for any funding for that budget or any particular needs for that budget has to go through the Controller's Office and the Mayor's Office from OCC without any direction from the Chief of Police, and the funding for this budget is from the general fund and not the police budget.

Deputy Chief Parra further explained that Director Allen can go to the Mayor's Office, the Controller's Office and lobby for additional funding.

Commissioner Orr-Smith stated that if it is appropriate to direct Director Allen to advocate for the OCC for what is needed to get the job done and if he runs into any problems to let the Police Commission know. Commissioner Orr-Smith also suggested that Director Allen submits a supplemental budget request.

PUBLIC COMMENT:

Mark Schlosberg, ACLU, discussed how important the OCC Director be a strong advocate for the agency.

Commissioner Chan stated that, based on materials submitted to the Commission, the current proposed authorization for OCC is placed the complete discharge of his mission at risk and that his mission faces imminent prospect of being compromised as a result of what the Commission find to be inadequate funding in order for Director Allen and his staff to fulfil their charter mandated responsibilities and that the Commission, in exercise of its authority granted under Charter Section 4.127, to reorganize and manage the Office of Citizen Complaints would authorize and instruct Director Allen to take the actions that have been stated by the Commission, and that the Commission continue approval of the OCC's budget pending the completion of that process.

Commissioner Renne stated that Director Allen review and determine whether or not it is sufficient to have him do his job and to the extent that it is not, make a supplemental request to the Mayor's office for the resources that are needed in order for office to complete and do its job this year and then report back to the Commission.

Commissioner Chan stated that the Commission continue approval of the OCC budget pending completion.

Therefore, the Commission authorize the Director of the OCC to execute any and all documents reasonably necessary to effectuate the purposes of the afore going resolutions.

Commissioner Orr-Smith second that motion.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

Approved 7-0.

ELECTION OF PRESIDENT AND VICE-PRESIDENT OF THE COMMISSION

PUBLIC COMMENT
None

Commissioner Keane nominated Commissioner Renne as President and Commissioner Orr-smith as Vice-President. Second by Commissioner Veronese. Approved 7-0.

RESOLUTION NO. 47-04

ELECTION OF PRESIDENT AND VICE PRESIDENT OF THE POLICE COMMISSION

RESOLVED, that Commissioner Louise Renne shall serve as President, and Commissioner Gayle Orr-Smith shall serve as Vice President of the San Francisco Police Commission.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE RECOMMENDATION OF THE WALL OF HONOR COMMITTEE TO PLACE THE NAME OF OFFICER ISAAC ESPINOZA ON THE HALL OF JUSTICE WALL OF HONOR

Deputy Chief Suhr presented the request for approval for the placement of Officer Isaac Espinoza's name on the Hall of Justice Wall of Honor. Deputy Chief Suhr stated that Officer Espinoza was killed in the line of duty on April 10, 2004 while attempting to take a suspect in custody for possession of an AK-47 assault rifle. He further stated that the Wall of Honor Screening Committee unanimously recommends and endorsed by Chief Fong that Officer Espinoza's name be placed on the Wall of Honor at the Thomas J. Cahill Hall of Justice.

PUBLIC COMMENT

None.

Commissioner Veronese stated that he hopes that the department is doing more to recruit more officers like Officer Espinoza that actually get involve in the community and well-known by the community.

Commissioner Chan stated that Officer Espinoza has fulfilled the highest tradition of service.

Commissioner Orr Smith entered the motion to approve the recommendation of the Wall of Honor Screening Committee to place Officer Espinoza's name on the Hall of Justice Wall of Honor. Second by Commissioner Chan. Approved 7-0.

RESOLUTION NO. 49-04

APPROVAL OF THE WALL OF HONOR COMMITTEE'S RECOMMENDATION TO PLACE THE NAME OF OFFICER ISAAC ESPINOZA ON THE HALL OF JUSTICE WALL OF HONOR

RESOLVED, that the Police Commission hereby approves the recommendation of the Wall of Honor Committee to place the name of Officer Isaac Espinoza on the Hall of Justice Wall of Honor.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

CHIEF'S REPORT

a. Presentation of a Citizen's Award
b. Presentation of Quarterly Report of Provision of Documents to the Office of Citizen Complaints (January - March 2004)
c. Presentation re: Firearms Policy
d. Presentation re: Extended Range Impact Weapon

Chief Fong stated that the first presentation of a citizen's commendation award will be by Deputy Chief Greg Suhr. The presentation of the quarterly report will be by Lieutenant Charles Keohane, Legal Division.

The presentation on Firearms Policy will be by Lieutenant David Lazar, the Department Training Manager, and Sgt. Dennis Quinn, Force Options Coordinator, and the final presentation on the Extended Range Impact Weapon will be by the Department's Range Master, Sgt. Rod Nakanishi.

Deputy Chief Suhr presented the Citizens Appreciation Award to Mr. Larry Russell Zellers for his assistance of an officer under attacked by a violent suspect. The officer stated the he believes that if Mr. Zellers had not intervened in the fashion in which he did, he may not have survived the encounter. Mr. Zellers action's are nothing short of heroic. Without regard to his own personal safety, he immediately went to the aid of a San Francisco Police Officer who was battling to survive a vicious attack from a much larger man.

Commissioner Renne, on behalf of the Commission, thanked Mr. Zellers and expressed the Commission's appreciation for his actions.

Commissioner Marshall thanked Mr. Zellers for getting involved and not turning his head

Lieutenant Keohane, Legal Division, presented the quarterly report of provision of documents to the OCC. Lieutenant Keohane stated that the total number of written requests received by the Department for the first quarter of 2004 was 49. 47 requests were provided by the mandated time frame. On two requests, OCC was notified in a timely manner that there would be a delay in the provision. Lieutenant Keohane stated that during this quarter there were no instances for which there was an untimely notification nor was there a denial of material. At the time the report was made, two requests remained open. One request is an MCD investigation which has not yet been completed but will be provided to OCC next week. The other case is an officer-involved shooting report where OCC has requested the final report of the MCD investigation. This investigation has not been completed and cannot be provided. As soon as the investigation is completed, it will be delivered. Lieutenant Keohane stated that all material inside that investigation, from Homicide and other sources, has been presented to OCC. It is just the final analysis and summary that has not been provided.

Commissioner Keane asked about the request regarding officer-involved shooting. Lieutenant Keohane stated that the request was made on November 6, 2003 and all the information inside that investigation has been delivered to OCC and only the analysis and conclusion of the investigation at MCD, who's investigating the policy issues, that has not been delivered.

Commissioner Sparks commended the Department for a timely response to this information.

Lieutenant Lazar presented the report regarding Firearms Policy and introduced Sergeant Dennis Quinn, Force Options Instructor. Sergeant Quinn discussed Department General Order 5.02, Firearm's Policy. Sgt. Quinn gave a brief summary of firearms policy 5.02. It's a summary policy that officers are expected to exhaust all other reasonable means of apprehension control before resorting to use of force. Sgt. Quinn discussed five reasons where officers are allowed to shoot in the line of duty. They allowed to shoot in defense of their own life, necessary defense of others from threat of death or serious bodily injury; to affect an arrest in serious felony cases; to also shoot a wounded or dangerous animal; and as a last resort as a mean of signal or alarm shot. Sgt. Quinn gave a brief background on his role as a Force Options Coordinator. Officers are put through a brief policy review then officers are put through interactive video scenarios in regards to use of force. Officers are trained to use verbal responses. It is not meant to take the place of range training.

Commissioner Orr Smith asked about training in handling mentally or disabled persons. Sergeant Quinn stated that Sgt. Sullivan, ADA Coordinator, puts on a 40-hour course for officers in mental health issues. Lt. Lazar explained that in the basic academy class there is a segment in disability awareness as part of the overall basic class.

Commissioner Chan asked regarding scenarios involving persons speaking in another language. Sergeant Quinn stated that officers are trained to be reasonable in dealing with persons speaking another.

Orr Smith in training, are there scenarios where officers are trained to handle situations where they are with officers and some of other the officers start shooting, how do they handle that. Sergeant Quinn stated that the officers are trained about individual accountability. Sergeant Quinn also stated that the threat to officers are from vehicles where people are using vehicles in assault situations.

Commissioner Sparks asked if officers are taught about what would constitute reasonable cause. Sergeant Quinn stated yes, officers are trained specifically by examples and officers are also taught that when in doubt do not fire.

Sergeant Quinn invited the Commissioners to come and sit in training.

Lt. Lazar stated that every officers are required every two years to take and participate in Force Options Training and Simulators.

Sergeant Nakanishi, Range Master, explained his duties as the Range Master. He stated that Sgt. Quinn teaches decision making and he teaches more of the mechanics of actual shooting. He gave a brief background regarding the extended range impact weapon program. The program started in November of last year. Since that time, the range have trained 1188 officers in patrol. He stated that the extended range impact weapon is a high visibility orange stock Remington pump shotgun with beanbag rounds. It is designed as a pain compliance weapon and designed to deliver the equal amount of force as a baton strike but at a much farther distance. All officers go through a 4-hour training block and basic scenario training and a live fire qualification in which they have to complete every six months. Sergeant Nakanishi explained the effectiveness of this program and explained that specialist unit has gone out 52 times and 41 times the subject has complied without the officers having fired a shot so 78 percent of the time, the officers didn't have to pull the trigger. In patrol there has been 20 incident, 8 times the subject has complied so 40 percent officers did not have to pull trigger for the subject to be taken into custody without any further resistance.

Commissioner Chan asked several questions regarding the extended range weapon. Sergeant Nakanishi explained that the weapon have been used 20 times and 8 times the officers did not have to fire. He also stated the optimal range for the weapon is 15 to 60 feet. Sergeant Nakanishi explained that before the officers leave the station, the officers double check and triple check that each and every round going into the weapon is a beanbag round. When the officers are called into the scene, the officers will go as a team as an extended range weapon gunner and a lethal cover officer. The gunners responsibility is to take command at that point when they see the subject, only the gunner or the lethal cover officer next to him should fire. All the other officers are supposed to hold fire. Accountability is also stressed to officers. If a subject cannot communicate in English, officers are trained to combine verbal challenge with basic hand gestures.

Lieutenant Lazar stated that the staff at the academy reviews the use of force log and a comprehensive report is compiled that addresses whether force

options were effective or not effective based on the circumstances.

Sergeant Nakanishi stated that from the reports he has seen, he feels that the extended range impact weapon is a great tool because it's another option that the officers can use on the street in dealing with difficult situations.

Commissioner Chan asked about the process where a new weapon is presented for consideration for adoption by the department. Sergeant Nakanishi stated that everything will have to go through the chain of command and the time frame varies and depends on how new the technology is.

Commissioner Chan asked how are new non lethal technology brought to the attention of the department. Deputy Chief Parra explained that the department is constantly looking for new technology. When deployed the department looks at the results and talks to the officers in patrol. The department also talks to Legal if any resulted in a lawsuit. It is examined through all aspects. The Department looks at how expensive it is because the department have to stay within the budget. Deputy Chief Parra also explained that when a weapon is deployed, there is a debriefing and follow-up interviews with the range master. Once reports and reviews are done they are then sent to the chain of command and decided if weapons can be deployed department wide.

Commissioner Chan asked if the ERW has ever been used for crowd control. Deputy Chief Suhr stated that it has not been used in crowd control. Most of the time, just breaking out of the orange shot gun, the officers have been getting compliance without having to discharge the weapon. Deputy Chief Suhr stated that the impact is similar to being hit with a major league fast ball.

Commissioner Sparks asked if every unit is not equipped with the ERW weapon. Sergeant Nakanishi explained that each station has 10 extended range weapons. Deputy Chief Suhr stated that the specialist are assigned their own weapon and 10 at the stations. Deputy Chief Suhr stated that if there wasn't one in every single car one will be readily available and responding at scene. Deputy Chief Suhr explained that the ERW weapon is stored in the trunk of police cars.

PUBLIC COMMENT:

Mark Schlosberg, ACLU, stated that, with regard to bean bag round, he is glad to hear that it is not used in crowd control.

(The Commission took a break at 8:15 p.m. and reconvened at 8:20 p.m.)

COMMISSION ANNOUNCEMENTS

b. Announcement of Police Commission training on May 27, 2004, at 4:30 p.m., in Room B34, City Hall. This training on the state and local laws and the Police Department policies pertaining to public safety officer discipline as required by San Francisco Administrative Code Section 96.8 is open to the public.

Taken out of order.

Commissioner Renne announced the training on May 27, 2004, at 4:30 p.m., in Room B34, City Hall.

c. Discussion and possible Police Commission training in addition to that required by Administrative Code Section 96.8

Taken out of order.

Commissioner Renne asked Ms. Morley if additional training will be discussed.

Commissioner Sparks stated that there is a one day training that's being developed and, if possible, can be discussed at tomorrow's training.

OCC DIRECTOR'S REPORT

a. Review of Recent Activities

b. Discussion of OCC Police Recommendation concerning timely disclosure of information in police matters of public concern

Director Allen reported regarding policy recommendation and stated the OCC and the Department have been working on policy recommendation. He also stated that there is a second policy that expands on the current policy and he stated that it is a work in progress. He stated that this policy is not submitted to be adopted but just for the Commission to see what brought this policy about. There is also a second policy in the hands of the city attorney and the Chief has a preliminary copy and should have this policy for future.

Commissioner Sparks stated that she appreciates Director Allen giving the Commission this policy and stated that the San Jose policy seems to be exactly what the Commission was talking about two weeks ago about timely disclosure particularly to the family of victims. She asked Director Allen to get a more detailed policy to the Commission and put it on agenda as quickly as possible. Director Allen stated that he has spoken to the Chief and they are looking to meet and confer within the week to discuss the policy.

PUBLIC COMMENT

None.

COMMISSION ANNOUNCEMENTS

a. Scheduling of those items identified for consideration at future Commission meetings.

Commissioner Keane asked that two items be put on the calendar. One is a report to the Commission from Police Legal as to functions of Police Legal are. In particular what the dynamics are in regarding to Police Legal guiding the Department in such matters as making the call about whether something should be confidential or not confidential and whether or not there is some kind of liaison with City Attorney's office or need for liaison with the City Attorney's office for proper guidance, if necessary, in regards to things like the exercise of discretion and the weighing of discretionary factors and whether or not there are particular legal questions that Police Legal should be either deferring to the City Attorney's office on or getting the views of the City Attorney's office. Commissioner Keane would like the Commission to get a handle on what it is that Police Legal does in advising the Police Department and whether or not they have taken away function that might be best for the City Attorney to be involved in.

Commissioner Keane stated that he has been contacted by owners of various adult movie houses on Market Street. Commissioner Keane asked that a representative or the head of Vice Division to come and talk about the priorities relating to Vice matters and whether or not they are overdoing it.

Commissioner Chan asked how the Department documents the effectiveness of community policing efforts. Commissioner Chan asked as to what extent to which non aggressive contacts with the public are being made. How often are advisories sent out, what are the extent to which officers appear in rec centers so as to give the Commission an idea of the efforts being made by department to demonstrate an involvement in lives of citizens not just in

arrest situations. Commissioner Chan would also like to look at the manner data is compiled. Commissioner Chan commended the Chief for department bulletin 04-127 with respect to a reminder to members about obtaining translation services.

Commissioner Marshall referred to an article comparing San Francisco and Oakland's investigative units. Commissioner Marshall would like the Commission to look at that matter.

Commissioner Orr Smith is interested in learning about the Permit Bureau and the licensing of certain businesses in the city and asked what is the scope of the Permit Bureau in licensing of liquor stores in Bayview and how enforcement is handled.

Commissioner Veronese would like a report regarding increase in violence and how it is related to juvenile activities, who gives out those licenses or would it be better for the Police Department to give it out rather than the Entertainment Commission.

Commissioner Sparks stated that in the Vice presentation asked for by Commissioner Keane, if the Department can talk about policies on enforcement of prostitution ordinances and how those ordinances are enforced, what type of discretion the department uses on those type of enforcement.

Commissioner Sparks would like to have a discussion as to how the Department is involving the community is solving some of these problems of violence in the Bayview and in the other areas in the city.

Commissioner Veronese asked about the hiring practice and promotion practice in the Investigations Bureau.

Commissioner Orr-Smith asked how the Department can educate public and make people alert about circumstances that goes on in their environment. What can the department do to educate the public to be safe.

RESOLUTION NO. 50-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR HEARING ON DISCIPLINARY CHARGES FILED AGAINST ASSISTANT INSPECTOR WILFREDO GONZALEZ, NIGHT INVESTIGATIONS (FILE NO. C04-082 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date for hearing on disciplinary charges filed against Assistant Inspector Wilfredo Gonzalez, Star No. 1272, Night Investigations, was called it having been set for this date; and

WHEREAS, Commissioner Joe Marshall is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Assistant Inspector Wilfredo Gonzalez; therefore be it

RESOLVED, that Commissioner Joe Marshall is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Assistant Inspector Wilfredo Gonzalez, and is to be set at a later date.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

PUBLIC COMMENT

None

APPROVAL OF MINUTES OF THE POLICE COMMISSION MEETING OF MAY 12, 2004

Commissioner Sparks asked that the minutes be amended to read "questions asked by the Commissioners."

PUBLIC COMMENT

None

Motion by Commissioner Sparks to approve the minutes as amended. Second by Commissioner Marshall. Approved 7-0.

PUBLIC COMMENTS

Elizabeth Frantez discussed concerns regarding medical marijuana.

Mr. Palega commended the Chief and Command Staff for working with the people in the community. He stated that they are seeing police in the Southeast Community but needs more staffing and appreciates the fact that the police is coming to the community to bring closure to some issues.

Mary wanted to present an idea regarding attending community meetings at the Tenderloin District Station and gave the Commission postcards announcing Community Meetings at the Tenderloin and stated that 5,000 cards were presented to the Tenderloin and paid for by the POA. She thanked Gary Delagnes, POA President.

Thereafter, the meeting was adjourned 9:00 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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SAN FRANCISCO POLICE COMMISSION AGENDA

SPECIAL MEETING
THURSDAY, MAY 27, 2004
4:30 p.m.

NEW LOCATION
CITY HALL, ROOM 34
#1 Dr. Carlton Goodlett Place
San Francisco, California

LT EDWARD GEETER
Secretary

Roll Call

1. Presentation by the Office of Citizen Complaints, the Police Department, and the Office of the City Attorney on the state laws and local laws and San Francisco Police Department policies governing public safety officers' discipline in San Francisco.

The Commission will hear public comment on all agenda items before or during discussion of the item. Public comment is limited to three minutes for individuals and five minutes for representatives of organizations.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

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Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Campaign & Governament Code §2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300 or fax (415) 581-2317; web site www.sfgov.org/ethics

SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A **sound enhancement system** will be available on request at the proceeding.

Meeting agendas and other print materials will be made available in **alternate formats** (computer disk, cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

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For information about MUNI service call 923 6142

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For information about the meeting call 553 1667(v) or 553 9194 (tty)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

SAN FRANCISCO POLICE COMMISSION AGENDA

Louise Renne
President
Gayle Orr-Smith
Vice-President
Douglas Chan
Commissioner
Peter Keane
Commissioner
Teresa Sparks
Commissioner
Dr. Joe Marshall
Commissioner
Joseph Veronese
Commissioner

Lt. Edward Geeter
Secretary

REGULAR MEETING
WEDNESDAY, JUNE 2, 2004
5:30 p.m.

NEW LOCATION
CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

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Pledge of Allegiance; Roll Call

1. Chief's Report (DISCUSSION ONLY)
   a. Presentation on the Department's preparedness for incidents of terrorism and natural disasters
   b. Update on Department's response to ACLU public records request

2. OCC Director's Report (DISCUSSION ONLY)
   a. Review of Recent Activities
   b. Update of the OCC Budget
   c. Review of OCC Policy Changes Recommendation
   d. Presentation on OCC cases that are eight months or older

3. Commission Announcements (DISCUSSION ONLY)
   a. Notice of assignment and setting of date for hearing on disciplinary charges filed against Officer Bert Filamor (File No. C03-149 JWA)
   b. Scheduling of items identified for consideration at future Commission meetings

4. Approval of minutes of the Police Commission Meeting of May 19, 2004 (ACTION ITEM)

5. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The Commission will hear public comment on all agenda items before or during discussion of the item. Public comment is limited to three minutes for individuals and five minutes for representatives of organizations.

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(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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A **sound enhancement system** will be available on request at the proceeding.

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=Minutes

JUNE 2, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton Goodlett Place, San Francisco, at 5:35 p.m., in a Regular Meeting.

PRESENT: Commissioner Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese
ABSENT: Commissioner Renne

(Commissioner Renne arrived at 7:40 p.m.)

CHIEF'S REPORT

a. Presentation on the Department's preparedness for incidents of terrorism and natural disasters

b. Update on Department's response to ACLU public records request

Chief Fong stated two items for presentation. First speaker will be Captain Dudley joined by Sergeant John Glischinski, Airport Bureau, and Inspector Jeff Lindberg, Special Investigations Division. The second presentation will be by Captain O'Leary in regards to the ACLU public records request.

Captain Dudley, Special Operations & Security Division (SOS), located at Building 606 in Hunters Point. Captain Dudley described the duties of the SOS. His unit is in charge of planning and preparing for homeland security issues including planning, training, providing equipment and support materials, and grant funding and application. Captain Dudley also described the Crime Prevention Company. The Crime Prevention Company is comprised of the SWAT teams, horses, Hondas, canine officers, Muni Response Team, Marine Unit, and the Explosive Ordinance Device Unit. These are officers and technicians with special training in patrol, crowd control, critical incident response and are responsible for being the first unit to deal with weapons of mass destruction or CBRN, Chemical Biological Radiological Nuclear explosive event. One of the roles of SOS is to liaison with other city departments including the local Office of Emergency Services, the San Francisco Fire Department, the Sheriffs Department, the Public Health, Public Works, Transit Authority, Rec and Park, and others in coordinating disaster response to natural or man made catastrophe. The SOS also work, plan and train with state and federal authorities including the Department of Homeland Security, the FBI, the Joint Terrorism Task Force, and the State Office of Emergency Services.

Captain Dudley talked about the Field Response Guide. He stated that every officer in the Department has been issued this guide that shows the officers the different district station's critical locations, mobilization procedures, general incident response, and other valuable information. One can be made available to the Commission Secretary if the Commissioners would like to see one.

Commissioner Veronese asked about what the Department is doing with other city agencies and is the Department prepared for a natural disaster and what type of relationship exists between the different departments. Captain Dudley stated disaster plans are being revised and a pocket guide is being put together to be issued to different city agencies and commissions that would explain the role of every individuals regardless of their department. Captain Dudley also explained that the Office of Emergency Services (OES) on Turk Street will be activated in case of an emergency, for example an earthquake. The heads from different departments would all go into the OES office and a unified command will be formed.

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Commissioner Sparks asked about the disaster response plan. Captain Dudley commended Captain Rick Bruce for laying out a plan for Special Operations and Homeland Security Group. Captain Bruce, right after 2001, tasked each district station captains to come up and identify their critical infra-structure. Captain Bruce also did a city-wide look at critical infra-structure identifying what would be critical to San Francisco. Captain Dudley explained that in the Field Response Guide, every station has identified the critical sites, as far a communication, food, water, shelter, medical aid. Captain Dudley also explained that the national alert level is still in yellow and stated that his unit talks everyday about response.

Commissioner Orr-Smith asked about new communications equipment that coordinates communications interdepartmentally as a result of the new OES office. Captain Dudley stated it has been addressed but would defer to DTIS to talk about what improvements are going to be made and stated that some funds were reserved for communication. Commissioner Orr-Smith asked how often inter agency drills are held. Captain Dudley stated at least10 drills to make sure that in an event of an emergency all different groups from different agencies can work together. Commissioner Orr-Smith also asked about neighborhood emergency response teams. Captain Dudley stated that there is a large amount of money going to the fire department to fund more exercises and training and that he believes that the goal is to train 40,000 San Franciscans as part of the grant. He stated it is the best way to educate people in neighborhoods to do CPR, first aid, work a fire extinguishers, et cetera.

Commissioner Veronese asked about the Department relying on a radio station to get officers to respond in case of an emergency. Captain Dudley stated that in an event of a disaster, the radio is one of the few things that will be operating for the public to listen in. There are three alternate stations that would broadcast information and the Chief has authorized five members of the command staff to access the emergency alert system.

Sergeant John Glischinski, Airport Bureau Special Services and Security Unit, described the airport's plan in case of an emergency. He described expansion of the airport and stated it doubled its sized. Sgt. Glischinski stated that SFO is currently the 11th largest airport in the United States and 19th largest in the world. Sgt. Glischinski stated that SFO and BART are named in the top 10 of California's critical assets. He stated that during design of the new international terminal complex, review of security and safety was undertaken. One system put in place was a close circuit television system (CCTV). He stated there are approximately 1400 cameras currently at the airport and an upgrade of the system is currently taking place to bring it in to the digital age.

Within airport bureau there are a number of specialized police teams dedicated to the safety and security of the SFO. He stated that the canine team as 14 explosive trained personnel. He stated that the team is mandated by the TSA (Transportation Security Administration) to cover 20 hours each day, 7 days a week and be available 24/7. He described the canine team and their duties. The EOD team comprised of three personnel that work with Crime Prevention Company EOD team and both are part of the mobile medical task force group comprised of personnel from the fire department, Department of Public Health that are trained to respond to chemical, biological, and radiological incidents. All EOD personnel are trained hazardous material specialists.

Sgt. Glischinski described his duties as the terrorism liaison within the Airport Bureau. He stated that he meets regularly with local and federal law enforcement agencies assigned to the airport which includes the TSA, FBI, Custom Investigation Branch, DEA, Federal Air Marshall, San Mateo County Sheriffs Detective. He keeps Airport Bureau personnel abreast of current

terrorism information.

He also talked about the development of a Security Incident Information System at all airports. He stated that this program is being independently developed by NASA and the purpose will be to solicit confidential incident reports from the transportation security administrative workforce. This program is being developed to replicate the NASA Aviation Safety Reporting System which was developed in 1976 through collaboration with the FAA. The project's goals are to provide a confidential non punitive reporting environment, to gather information on security system events, identify vulnerabilities that may not be discernable through other reporting avenues and alert decision makers to potential problems for appropriate follow-up action. This program is to be rolled out to SFO, Oakland, and San Jose Airports with an expected start date of September 2004.

Commissioner Sparks thanked Sgt. Glischinski for his very informative presentation. Commissioner Sparks also asked about resource availability since the size and staffing of the Airport have almost doubled. Sgt. Glischinski stated that the TSA has geared up at all the airports and have come in to help with security personnel. Also, in June, the Airport will be conducting a vulnerability study and after the study is completed, hopefully more information will be available as to what needs are necessary.

Commissioner Veronese asked about costs associated with federal requirements and if these costs are supplemented in any way? Sergeant Glischinski stated a number of the costs are being picked up by federal grants through the airport.

Commissioner Orr-Smith asked several questions. Sgt. Glischinski stated that the new Operations Center will be operational sometime around September or October. Sgt. Glischinski also stated that EOD stands for Explosive Ordinance Detail.

Captain Dudley explained the duties of the Crime Prevention Company. It is comprised of the SWAT Team, EOD, Hondas, Horses, Canine Unit. They are the technicians specifically trained with incidents talked about but they also have patrol obligations specific to what their individual specialty is.

Sgt. Glischinski also talked about the different agencies operating at the Airport which are the Customs, DEA Task Force, FAA, Federal Air Marshals, FBI. Deputy Chef Pengel stated that there are about 35 agencies. Chief Pengel also stated that the Airport Bureau is funded by the airport and the airport received its funding through the airlines and fees. The federal government will come out with mandate but generally it does not include money. However, there are times when it will and an example is the canine unit. Twenty percent of the cost is reimbursed by FAA. Deputy Chief Pengel commended Sgt. Glischinski for his efforts and stated he is a tremendous asset in the Airport.

Inspector Jeff Lindberg, Special Investigations Division (SID), gave a brief overview of the SID duties. One of the areas SID is responsible for would be confidential or sensitive investigations as it relates to allegations of criminal misconduct on the part of public officials or law enforcement officials. SID is also involved in investigations of any explosives, bomb threats, hate crimes, monitoring and initiating 8.10 investigations, dignitary and public protection. Since 911 SID has resumed responsibilities to terrorist threats. SID is also responsible as a liaison investigative unit with other local, state, and federal officials. Inspector Lindberg talked about the Joint Terrorism Task Force (JTTF) as a valuable component in responding to terrorism. The JTTF is a collaboration of local, state and federal law enforcement agencies. In the region there are representatives from San Jose, Oakland, San Francisco, San Mateo, state level, FBI, Secret Service, and

Marshals Office. He stated there are over 26 agencies involved. Inspector Lindberg stated the SFPD has two full time inspectors that are dedicated to the JTTF. They are assigned and report to the SID.

Commissioner Veronese asked which program is the SID's budget under. Inspector Lindberg stated it is under the Investigations Bureau.

Commissioner Sparks asked about investigations in regards to people of Middle Eastern decent. Inspector Lindberg explained General Order 8.10 which deals with First Amendment Activities and stated that the SFPD fully subscribes and will adhere to General Order 8.10. He stated that the investigative area that the two representatives are in are in criminal investigations only. They conduct strictly criminal investigations. They have been trained in 8.10 issues and they exclude themselves or do not get involved if an 8.10 issue comes up. The investigations they are involved with are strictly criminal in nature and not investigations into person or persons or organizations regarding first amendment activities. If that is the case, they report back to SID. Inspector Lindberg also explained that General Order 8.10 allows for appropriate investigations to occur to safeguard rights of individuals to where the Department is not monitoring political activities or meetings.

Commissioner Orr-Smith asked about personnel under the SID. Inspector Lindberg stated there are 15 investigators within the SID and in addition the SID can call upon assistance from other law enforcement agencies. There are 15 investigators but not full time because they are called upon when situation arises.

Commissioner Orr-Smith asked if the number of hate crimes reducing or declining? Inspector Lindberg stated recently there was a report that recently have been submitted and will get that to the Commission.

(Commissioner Renne arrived at 7:40 p.m.)

Commissioner Renne arrived at 7:40 p.m. and apologized for being late She had to be in court in Sacramento.

PUBLIC COMMENT

None

Captain O'Leary reported regarding the ACLU's public records request. Captain O'Leary described the process of Officer-Involved Shooting (OIS) investigations. He stated that when there is an officer-involved shooting, the primary investigation for the SFPD is conducted by the Homicide Detail. There is parallel criminal investigation by the District Attorney's Office, the OCC is asked to the scene if there is a complaint and they conduct their investigation and the Management Control Division (MCD) conducts an investigation as well. Part of the initial process includes ordering forensic tests and waiting for the medical examiner's report.

The homicide inspector assigned to the case then forwards all material in the case file to the district attorney's office. The district attorney then has many avenues to take. One is to come to a conclusion, based on the information that is forwarded by the homicide inspector, a letter comes back from the district attorney to the police department that states that there is no criminal culpability on the part of the officers. The department then files a report with the Chief of Police. The Homicide Detail will write an OIS report and it will be sent through the chain of command to the Chief of Police. The district attorney's letter is normally an attachment to that report. The Chief then can order more investigations, order more tests, order further inquiry by the criminal investigations in the case. If the Chief of Police is satisfied with

the investigation, she can sign off on the homicide report. That report is forwarded to MCD for review of documents forwarded or investigate the case. MCD's focus is if the shooting is in policy or not in policy then that report is forwarded to the Chief and a summary is written and that summary is forwarded to the Commission.

Captain O'Leary stated that he spent time with the Homicide inspector assigned to the case, his Lieutenant, and his Captain. He also spent the day with members of district attorney's office to discuss and prepare for this presentation. Captain O'Leary stated that the OIS case file is incomplete and that the Department is waiting for the medical examiner's report in this case. In the past the medical examiner's report in police shootings has been issued 60 to 90 days after the incident.

Captain O'Leary also stated that he learned today that there is a private investigator conducting an inquiry into the case and this particular investigator has been locating witnesses and has been asking these witnesses not to cooperate with other investigators.

Captain O'Leary stated that the release of documents from OIS file can taint any unanswered questions that would be generated by the medical examiners report. The Department does intend to answer the ACLU's public record act request but not at this time. Names were released on June 1st. The department do intend to answer the ACLU's request but is not going to release the information today because the Department have not received the medical examiner's report.

Commissioner Keane thanked Captain O'Leary for his report and commended the Department on release of names and on the information released pursuant to the ACLU's request. Commissioner Keane then expressed concerns regarding the Public Affairs press release. Press release is criticized due to other information in the press release regarding the incident. Commissioner Keane stated that the press release could taint witnesses' statements also and asked why this was done. Captain O'Leary stated that the Department is trying to get information out that was promised to the public. In the press release, the department is trying to be open without getting into the "no comment" response.

Commissioner Marshall agreed with Commissioner Keane and expressed concerns about the press release.

Commissioner Veronese criticized the press release and stated he was astonished when he read the press release and hopes that the Public Affairs office have learned a good lesson.

Commissioner Sparks thanked Captain O'Leary and stated when she received the press release she assumed that the Commission will receive the case file because the press release included statements on how the incidents unfolded. Commissioner Sparks asked that General Order 8.11 be revised immediately.

PUBLIC COMMENT

Michael Petralis discussed press release and stated that press release is in department's website and asked that meeting be televised.

Marylon Boyd, mother of Cammerin Boyd, appreciates information obtained from the police. And stated that investigators did not tell witnesses not to talk to other investigators and stated there has been harassment from the police and asked the Commission to investigate harassment and stated witnesses are not coming forward due to intimidation.

Michelle Shepard, Cammerin Boyd's aunt, addressed concerns

regarding the shooting of Cammerin Boyd

Commissioner Renne asked if it is accurate that the press release is on website? Captain O'Leary stated he is not sure. Commissioner Renne asked Captain O'Leary to please review the matter.

OCC DIRECTOR'S REPORT

a. Review of Recent Activities
b. Update of the OCC Budget
c. Review of OCC Policy Changes Recommendation
d. Presentation on OCC cases that are eight months or older

Director Allen stated the General Order that Commissioner Sparks spoke of is close to completion. He stated that the Commission will be getting a policy recommendation that is thoroughly researched, put together, reviewed, drafted, redrafted so that the Commission can have something and put on the calendar as action item.

Director Allen gave a brief update on the OCC's Budget. He stated he spoke with Ben Rosenberg and stated that they and will sit down with OCC to make changes with the OCC's budget and hopefully fulfil spots that OCC don't currently have. He stated that should happen within the week.

Director Allen stated that there are 95 cases that are eight months or older. He explained that the OCC has cases that are pending and suspense cases. He explained that suspense cases are cases that have been held up, criminal matters or civil matters. The rest are cases that are just pending final investigations and closure.

Commissioner Keane stated that he gave a proposed resolution to Lt. Geeter relating to proposed reporting that will help the Commission in catching things that might get dismissed because of the statute of limitations and would like it calendared some time in future.

Commissioner Sparks asked regarding the budget and asked the City Attorney to research and draft a proposed resolution that would perform the following functions: (1) It would clearly state that it is the responsibility of the Director of the OCC to prepare the agency's budget and negotiate its final draft directly with the Mayor's Office and Board of Supervisors. (2) Clearly state that neither the Chief of Police nor her designee has the authority to unilaterally modify the OCC's budget without the expressed written permission of the Director of the OCC. (3) Clearly state that although the OCC budget stays as a line item in the budget of the Police Department, it remains a sole responsibility of the Director of the OCC to prepare, negotiate, administer, and track the OCC's budget. City Attorney Mariam Morley will get back to the Commission regarding Commissioner Sparks' request.

Commissioner Veronese asked that in regards to the policy that the MOU and the POA be taken into consideration and he would like some input on the policy that's being put out. Director Allen stated that he will give the policy to the Commission as a discussion item and not an action item until all steps are followed.

Commissioner Sparks asked about supplementary request relative to the OCC's budget. Director Allen stated that because budget was going to print, the OCC will have to wait for the Board of Supervisors to approve the budget but in the mean time he will meet with the Mayor's budget office to discuss more funding.

PUBLIC COMMENT

Frank Martin Del Campo, Local 790, stated that the OCC is being obstructed by budgetary issues and thanked the Commission for addressing this issue.

COMMISSION ANNOUNCEMENTS

a. Notice of assignment and setting of date for hearing on disciplinary charges filed against Officer Bert Filamor (File No. C03-149 JWA)

b. Scheduling of items identified for consideration at future Commission Meetings

RESOLUTION NO. 51-04

ASSIGNMENT OF COMMISSIONER AND SETTING OF DATE FOR HEARING ON DISCIPLINARY CHARGES FILED AGAINST OFFICER BERT FILAMOR (FILE NO. C03-149 JWA)

WHEREAS, the assignment of a Commissioner and setting of a date for hearing on disciplinary charges filed against Officer Bert Filamor, Star No. 535, Support Services, was called it having been set for this date; and

WHEREAS, Commissioner Louise Renne is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Bert Filamor; therefore be it

RESOLVED, that Commissioner Louise Renne is hereby assigned to conduct taking of evidence in the disciplinary charges filed against Officer Bert Filamor, and is to be set at a later date.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

PUBLIC COMMENT

None

Commissioner Renne stated that next week's calendar will be short due to Biotech Conference.

Commissioner Keane asked that proposed resolution regarding OCC and MCD cases be listed as an action item when put on the calendar.

Commissioner Orr-Smith that the SRO MOU seeking input and comments from the Commission be placed on the calendar on June 9th.

Commissioner Orr-Smith would also like a presentation regarding a letter from Dr. Mike Malle regarding arrests of African-American women and asks the Department to give presentation about arrests for narcotic offenses.

Commissioner Orr-Smith asked regarding Charter proposal regarding Anti-Homicide Plan sponsored by Supervisors Maxwell and Daly that involves funding for the Department's Crime Lab and forensic activities. Commissioner Orr-Smith would like to have discussion on this item.

Commissioner Veronese stated the budget item is still an action item.

PUBLIC COMMENT

Mark Schlosberg, ACLU, stated that he noticed that there are a lot of items for future meetings and urged the Commission to put them in two categories. One is discussion of broader issues that are informative in nature and the second is action items on specific policy issues and urged that policy proposals be calendared closer up on the agenda.

APPROVAL OF MINUTES OF THE POLICE COMMISSION MEETING OF MAY 19, 2004

Motion by Commissioner Keane to approve the Police Commission minutes of May 19, 2004. Second by Commissioner Marshall. Approved 7-0.

PUBLIC COMMENT

Michael Petralis discussed concerns regarding his arrest and his FBI files requested that meetings be broadcast.

Kathi Hawkins talked about a young man who wanted to be on the SFPD and stated the he passed all exams and went to Diablo College. She also stated that he was called by the Department for an interview, thinking he was going to be interviewed to be possibly on the police force, but he was arrested because of problems with his girlfriend. She asked that her son be part of the force and asked the Commission if there are any other cases similar to this case.

Chief Fong addressed the Commission and stated that as Chief of the Department she takes full responsibility for the press release that was put out and that the Department will work to ensure that said press release is taken off the website and that future documents do not reflect information that may appear to be conclusive.

Barbara Brose discussed concerns regarding agenda items.

Thereafter, the meeting was adjourned at 7:50 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JUNE 9, 2004
5:15 p.m.

City Hall, Room 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

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Closed Session (5:15 p.m.)

Roll Call.

1. Public Comment on all matters pertaining to the Closed Session.

2. Vote on whether to hold Closed Session to confer with legal counsel. (San Francisco Administrative Code Section 67.10(d)) (ACTION ITEM)

3. Closed Session pursuant to Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d).

   CONFERENCE WITH LEGAL COUNSEL - Existing Litigation
   a. Darius Hinton v. City and County of San Francisco, et al, San Francisco Superior Court No. 400-292

Open Session (5:30 p.m.)

Reconvene to Open Session.

Pledge of Allegiance; Roll Call

4. Vote to elect whether to disclose any or all discussion held in Closed Session (San Francisco Administrative Code Section 67.12(a)). (ACTION ITEM)

5. Approval of Consent Calendar (ACTION ITEM)

   Recommendation of the City Attorney for settlement of the following claim:
   a. Darius Hinton v. City and County of San Francisco, et al, San Francisco Superior Court No. 400-292

6. Chief's Report (DISCUSSION ONLY)
   a. Review of Recent Activities

The Police Commission

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Commissioner

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Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JUNE 9, 2004
5:15 p.m.

NEW LOCATION
City Hall, Room 400
#1 Dr. Carlton Goodlett Place

7. OCC Director's Report (DISCUSSION ONLY)
   a. Presentation on the OCC's Outreach Plan
   b. Review of OCC Policy Change Recommendations regarding officer-involved shootings and in-custody deaths
   c. Review of Recent Activities

8. Discussion and possible action to respond to a request from the Curriculum Committee of the San Francisco School Board for comment on the draft School Resource Officer Memorandum of Understanding (ACTION ITEM)

9. Commission Announcements (DISCUSSION ONLY)
   a. Scheduling of items identified for consideration at future Commission meetings
   b. Discussion of possible dates for future Police Commission training

10. Public Comments
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

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*There will be Public Comments on any item before or during discussion of each item.

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SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

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For information about the meeting call 553 1667(v) or 553 9194 (tty)

Minutes

JUNE 9, 2004 **CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton Goodlett Place, San Francisco, at 5:25 p.m., in Closed Session.

PRESENT: Commissioners Renne, Orr-Smith, Chan, Kean, Marshall, Sparks, Veronese

VOTE ON WHETHER TO HOLD CLOSED SESSION TO CONFER WITH LEGAL COUNSEL (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d))

Motion by Commissioner Keane to hold Closed Session. Second by Commissioner Veronese. Approved 7-0.

CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d)

CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

a. Darius Hinton v. City and County of San Francisco, et. al., San Francisco Superior Court No. 400-292

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9/04

JUNE 9, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton Goodlett Place, San Francisco, at 5:45 p.m., in a Regular Meeting.

PRESENT: Commissioners Renne, Orr-Smith, Chan, Kean, Marshall, Sparks, Veronese

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

No public comments.

Motion by Commissioner Orr-Smith not to disclose discussion held in Closed Session. Second by Commissioner Keane. Approved 7-0.

APPROVAL OF CONSENT CALENDAR

No public comments.

Motion by Commissioner Orr-Smith to approve the Consent Calendar. Second by Commissioner Keane. Approved 7-0.

RESOLUTION NO. 52-04

DARIUS HINTON v. CITY AND COUNTY OF SAN FRANCISCO, et al.

RESOLVED, that the recommendation of the City Attorney for settlement of the litigation of "Darius Hinton v. City and County of San Francisco, et. al.," in San Francisco Superior Court No. 400-292, be, and the same is hereby approved.

Date of Incident: October 17, 2000

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

DOCUMENTS DEPT.

AUG - 2 2004

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CHIEF'S REPORT

a. Review of Recent Activities

Chief Fong stated the Department has been involved in demonstrations, antiwar as well as the biotech conference. She introduced Deputy Chief Suhr, FOB, to report on preparations and events that have occurred.

Deputy Chief Suhr reported that the Field Operations Bureau (FOB) was mobilized early beginning of Saturday and working with all other city agencies when there was an antiwar demo. The demo drew about 15,000 people. Chief Suhr reported that there was approximately five arrests, three of those were rebooked by the district attorney, which was attributed to the district attorney's office and inspectors bureau working together to make sure that the department is making more better productive cases.

Chief Suhr stated that Sunday was a very busy day in the City. It started off with the Israeli Assembly in SBC Park which drew a certain protest Palestinian contingent. That group then marched to Union Square. On Sunday, at the arrival of the buses, 70 plus, at Fort Mason, the demonstrators rushed into the intersection throwing fruits and vegetables at the buses in protest of the genetically engineered food. As soon as there was police presence, they retreated to the various corners, held an open mike for about an hour. Nobody was arrested.

On Monday, the Department began its emergency mobilization mode, having all uniformed personnel on 12-hour days with a certain contingency left at the stations to handle the base calls for service and the remainder to handle the demonstrations. Deputy Chief Suhr stated that Monday went well without incident. There were a few run ins with the demonstrators but it was in a much smaller scale.

On Tuesday, protestors scheduled to shut down BioTech. At 6:00 a.m., approximately 1,000 demonstrators took to several areas in San Francisco. The largest group went to 4th and Howard where they laid down on the street surrounded by plants and vegetables and put on sleeves, which is a plastic plumbing pipe, and then locked hands inside the sleeve so that they cannot be moved. They want it to be so that they have to be cut off by the police. Another tactic was done because the Department does not like the way it looks for the police department to be doing that to demonstrators so everybody was arrested that was not sleeved and then the assembly was accommodated by appropriating furniture dollies and literally two officers to a demonstrator, pick them up, sit them on the dollies and roll them out of the street into a penned area where they stay for as long as they wanted. About 45 minutes later, they took the sleeves off voluntarily and submitted to misdemeanor arrests. Some demonstrators also threw themselves under the wheels of the BioTech buses. They were pulled out from under there. The most serious event of that encounter was the kicking of the 50+ year old motorcycle lieutenant which almost caused him to go off his motorcycle, if it fell on him, could amount to serious aggravated assault. That suspect was arrested and booked on a felony charge. The rest of the day wasn't too bad until about 6:00 p.m. when a We Claim the Streets street party started at the United Nations Plaza and started down Market Street. The march was unruly in the beginning but at about 6th and Market, demonstrators went on sidewalks, newspaper racks were thrown on the street, there were some pounding on the windows. The Tactical Company gave admonitions that this was an un-permitted march and that they should move on to the sidewalks. The group did not comply, they were encircled and approximately 133 to 135 people were encircled, about 6 to 8 were juveniles and released at the scene, everybody else were arrested for failure to obey a traffic officer and blocking the roadway. They were taken to County Jail No. 9 where everybody that would provide their name would be cited and released. Approximately 41 that were arrested were booked under Jane or John Doe. Chief Suhr asked the National Lawyer's Guild to ask the

contingent if they would provide the Department with their names, and they said that this group wanted to be booked and not cited as a further protest to BioTech. So far, ten have been cited due to identifications were found in their backpacks. No officers were injured in any of the encounters.

PUBLIC COMMENT

Elizabeth Frantez discussed concerns about the appearance of the officers.

OCC DIRECTOR'S REPORT

a. Presentation on the OCC's Outreach Plan
b. Review of OCC Policy Change Recommendations regarding officer-involved shootings and in-custody deaths
c. Review of Recent Activities

Director Allen reported on the OCC's Outreach Plan. He stated that he tried to address the public concerns and talked with several organizations, Police Watch, LaRaza El Centro, Asian-American-Pacific Island because he wanted to know what the general concerns were out there about the OCC. Director Allen stated that some people thought that the OCC were their representatives and that the OCC don't do a good job representing them. One of the concerns was the confidentiality of the process because most of the time, except for the people who are involved in the actual claim, the people do not know the result of the investigations and he stated that that is frustrating to the public. He stated that it leads to a perception that the OCC actually doesn't investigate and is, what has been termed, a rubberstamp organization. Director Allen stated that to address those concerns, the OCC have to figure out first what information is out there and how it can be changed. Director Allen stated one of the ideas that came up is to revised the OCC brochure. The current OCC brochure is printed in English and Spanish. That is being considered to expand it to Cantonese. The brochure also only talks about the OCC process but it doesn't address the questions that are asked by the public. He stated that the investigators will give him as many questions as they can to add to the revised OCC brochure.

Once the brochures were created, it was a matter of disseminating this information to the public. The thought is to start with the community police meetings because each district stations hold district meetings at least once a month. He stated that he will make sure that the OCC 293 forms, used to take complaints, are at all stations. He will also contact the larger organizations (i.e. Ella Baker Center for Human Rights, ACLU, Asian Law Caucus, LaRaza El Centro) and work with them. They have methods of reaching their community and they have mailing lists where they send out informative cards. He stated that he will work with them in getting those list. He stated that he wants to reach as many people as he can in the city.

Director Allen stated that as part of the OCC policy, is that the staff and investigators are to ride with police officers for an 8-hour period. Whether 8 hours at a time or they can split that shift. One of the considerations is that those that are unable to ride with an officer, can do a walk-along, can do an SRO program, or they can attend the Police Commission meeting or even go to court to watch a preliminary hearing.

Commissioner Orr-Smith stated that the idea of the police district station meetings is a good one. Commissioner Orr-Smith stated that what is important is for the community to know that the OCC will be out in the community on a consistent basis as opposed to not showing up regularly. She also liked the idea of using existing community-based organizations, getting their advise and input in terms of strategies. Commissioner Orr-Smith also stated that she thinks that it would be helpful to have the Idriss Stelley Foundation be a contact point within the community.

Director Allen stated that he would have a training session for the different agencies so that when complainants come in, the different agencies will know how to fill out the complaint forms. He also stated that the forms are available in all district stations. Commissioner Orr-Smith suggested that forms be available in the district stations' lobby for better accessibility to the complainant.

Commissioner Sparks asked if there is a master outreach plan developed that can be reviewed by the Commission or by the community. Director Allen stated there has been various forms. What he is trying to do is to rewrite a master plan and start from scratch. Commissioner Sparks stated that the ideas presented are really good and encouraged Director Allen to prepare a master plan to disseminate to the Commission to allow for additions and modifications to get more input.

Director Allen explained that there are ways that complaints can be reported and those are in person, on the phone, anonymously, or done at the stations and mail-ins. He also informed the Commission that there are organizations that do "Know your Rights" seminars. He stated that he would not have his investigators doing those seminars instead have them speak more to the OCC process, the interaction between the OCC and the police, and try to re-instill the confidence of the public that there is an agency out there that investigates.

Commissioner Marshall asked if the OCC has done any joint presentations with the Police Department. Director Allen stated that he has been in meetings with the Police Department but he can't remember doing joint presentations with the Police Department. Commissioner Marshall stated that it might be a good idea to have a joint presentation because it can cover a lot of grounds.

Commissioner Orr-Smith stated that a joint presentation with an OCC investigator and perhaps an MCD investigator would be a good idea because part of the police and the whole investigatory process includes the Police Department's role in investigating conduct of officers as well as the civilian oversight role and she thinks that a joint presentation might be something that can be explored and then report back to the Commission.

Director Allen updated the Commission regarding the OCC policy change recommendation regarding officer-involved shootings and in-custody deaths. He explained that the recommendation is in regards to giving out information after an officer-involved shooting and in-custody deaths.

Commissioner Renne asked if the Department has seen the revised copy of the policy recommendation. Director Allen stated that the Department received the copy after 3:00 p.m. this afternoon and the Department had informed him that they received it but didn't get a chance to look at the revisions. He stated that he believes the Department has some disagreements but since the Commission had asked for Director Allen to bring forward the policy, he is bringing forward the policy for the Commission's consideration. He stated that the OCC is open for negotiations still with the Department, with the Commission, with the groups that might want to put in their input but since the Commission asked for a finished copy, the OCC feels that this copy of the policy is one of the stronger versions that he can bring. Director Allen explained the new version of the policy recommendation.

Commissioner Renne stated that she had talked to someone from the University of California that advises police departments on death notifications and some ways to do that. She stated that she will be sent materials and would like to share information to the Commission. Director Allen asked that he be sent a copy also.

Commissioner Veronese asked how does the OCC differentiate who gets the information. Director Allen stated that it would be incumbent on the Police Department to determine who to give the information to but Director Allen stated that it is important to have somebody out there to initially just talk to everyone on the scene who is interested and getting them contact information with somebody they know they call and talk to who have some information and if they don't have that information, they will be able to get that information and get it to the family or the people at a later date.

Commissioner Keane commended Director Allen and Jason Weckter for the recommendations and stated that at some point he hopes the Commission will go ahead and move the recommendation up or down and have all the people who want to give input to be present.

Commissioner Chan asked several questions about changes done in section 3 of the policy recommendation. Jason Weckter explained the changes and Director Allen stated this policy is long time incumbent and needs to be implemented in whatever polished form as soon as possible.

Commissioner Sparks asked about what other department release and the time frame. Mr. Jason Weckter explained that in Los Angeles the crime report, which is analogous to a San Francisco Police Department incident report, is a matter of public record and according to the lieutenant in charge of the critical incidents investigation division has been so for 33 years pursuant to the California Government Code section 6254. This contains the names of suspects, witnesses, victims, and the chronicle of the incident. They also release the name of the police officers who are involved in the Chief's 24-hour log which goes to media relation. They include in their press release the police officer's name, their age, and their number of years in the department. In Portland, the names of the officers are released 24 hours after the shooting including their name, age, and length of time in the department and the identifications of those who fired and/or were directly involved.. All officer-involved shootings go to a Grand Jury within one to three weeks. If the Grand Jury does not indict the officer, the entire case file is released. Crime scenes and autopsy photographs are redacted. If the Grand Jury does indict, then that case is not released until after the conclusion of the criminal case. In Phoenix, the report is released when it is final usually takes about three weeks. That includes department reports, the names of the officers and witnesses are rarely redacted. Only in cases when juveniles are identified and they are barred by State law from releasing the names of juveniles. The other exception would be anything that someone could articulate that would be damaging to the investigation. Social Security numbers are redacted pursuant to an Arizona public records law. In Ontario the lead investigator briefs the family of a regular basis. If no charges are filed against the officer, they go through their investigative process and findings in great detail and answer any questions, and they do have someone who act as a liaison to the family.

Commissioner Veronese asked the City Attorney for an opinion as whether or not a meet and confer is needed.

PUBLIC COMMENT:

Ernestine Weisman asked that a committee be established in regards to policy changes to decrease the length of the Commission agenda.

Frank Martin Del Campo, SEIU 790, stated that the Union thinks that public policy are important and welcomed discussion. He also thanked Commissioner Sparks regarding policy recommendations.

Michael Petrallis discussed concerns regarding his FBI file and stated that he has filed a complaint with the OCC and have started the process. He also recommended several outreach ideas for the OCC and requested that the Commission meetings be broadcast.

Mark Schlosberg, ACLU, thanked the Commission and the OCC for

discussing the issues of Outreach and response to officer-involved shootings. He asked that the item regarding the policy recommendation be calendared for action and discussion immediately.

Malaika Parker, Bay Area Police Watch, commented on the OCC's outreach plan and requested that advertisements be put on jail cells. She also stated that the policy regarding notification of the family is important and crucial.

Sandra Juanita Cooper, Idriss Stelley Foundation, thanked the Commission for the job being done. She also talked about an incident that happened in the Mission Station.

Meesha Irizarry thanked Chief Fong for allowing the mediation between Captain Corrales and the family. She stated that hopefully trust and respect will be restored between the community and the police department.

Unidentified discussed concerns regarding actions of the police two years ago and stated she was beat up in the Mission Station and requested video cameras be used.

Shannon Altamoreno, friend of Sheila Detoy, thanked the Commission regarding press release on the Boyd shooting and hopefully the new policy change will make a difference.

Otis Harris, Generation X for Community Accountability, stated that he was a witness for the Camerin Boyd shooting and discussed concerns regarding actions of the police. He stated that he wants to see a change in the neighborhood.

Leroy Moore, Advocate for People of Color with Disability, discussed concerns regarding mental health training for police officers and discussed OCC outreach for people with disabilities.

Unidentified, friend of the Boyd family, thanked the Commission and discussed concerns regarding complaint made in 2000 regarding the beating of her son by police officers.

Monica discussed concerns regarding police actions and the beating of her son by police officers and complaint made with the OCC regarding the incident.

(The Commission took a five-minute break.)

DISCUSSION AND POSSIBLE ACTION TO RESPOND TO A REQUEST FROM THE CURRICULUM COMMITTEE OF THE SAN FRANCISCO SCHOOL BOARD FOR COMMENT ON THE DRAFT SCHOOL RESOURCE OFFICER MEMORANDUM OF UNDERSTANDING

Commissioner Renne stated that she has been advised that because she is the general counsel for the school district, that she should not participate in this discussion. Commissioner Renne excused herself.

Sergeant Colleen Fatooh, Coordinator of the SRO Program for the Police Department. Sergeant Fatooh gave an overview of the SRO Program. She stated that the success of this program is exhibited by the working partnership among youths, their families, the San Francisco Police Department, and the San Francisco School District. Currently the SRO Program is staffed with 27 full time school resource officers assigned to most high schools and some middle schools. SROs are supported by the 11 district school cars. In addition regular school day duties, the SROs supervise and ensure the safety of students at a majority of school events including dances, athletic games, proms, community events. They also participate in summer youth programs including the Clean Team which is a program at Mission Station where the officers work with a group of usually 60 youths from the community in a job skilled program. The SROs also work at the rec center at Milton Myers and Hunters Point, the Beacon Centers in the Western Edition, SCORE with is a soccer literacy program in Visitation Valley, and they also provide security and supervision for the summer schools.

Sergeant Fatooh stated that in 1999 the Police Department secured funding from the US Department of Justice through the Community Policing Services Program to place full time school resource officers in high schools and some middle schools. This was called the Cops in School Program. At the same time, the San Francisco Unified School District secured a grant from the Department of Health and Human Services which required that the School District have an officer as part of their team.

Sergeant Fatooh read several items that the School Board would like the Police Department to address. (1) That there will be no school resource officer assigned to the school without the participation of the school psych counsel. What they want is to be able to input into which office they choose is the right fit for their school. (2) They ask that no student be arrested on school grounds or premises except during the commission of a crime and that no student be arrested for criminal activity that occurred on non-school property or any incident that has been removed in time from the arrest and is not in consistent with state and federal law. (3) They ask that the Department concentrate on keeping schools safe from the exterior and that the Department establish an SFUSD committee to hear grievances from parents and students related to police in the schools. (4) They also wanted some of the funding to go to fund counselors instead of police officers.

Sergeant Fatooh talked about the Wilderness Program. The program has taken close to 40,000 students from San Francisco on various wilderness activities to hiking, trips to Yosemite, sea kayaking, river raffting in the American River, days hikes and backpacking trips.

Commissioner Keane commended the SRO program and the community should be told about the program.

Commissioner Marshall asked if there is a special training for SROs in schools. Sergeant Fatooh stated that officers meet with the school administrator and go over, at the beginning of the year, for a menu of activities what it is the officers will be doing there. It is broken down into law related education: the school safety piece, the community outreach piece. From there the officers decide on what is it they are going to be doing. Sergeant Fatooh stated that in the basic SRO course, different people from the community came in to talk on violence prevention from the violence prevention network and then each of the officers went to a department justice training where there was a piece on violence prevention. Different speakers are brought in for the officers. Officers have gone to various training throughout the state on school safety which always has violence prevention components to it.

Commissioner Sparks thanked Sgt. Fatooh for her presentation. She asked regarding the recommendation from Coleman Advocates. Sergeant Fatooh stated that she didn't see the recommendation prior but in reviewing the recommendations from Coleman Advocates, Sgt. Fatooh stated that most of them are issues that are already being addressed. Sgt. Fatooh explained that it's a little complicated defining that role in regards to discipline because discipline is something that's supposed to be done by the school administration and the criminal stuff is supposed to be done by the Police Department and it's not always black and white.

Commissioner Orr-Smith asked Ms. Morley, City Attorney's Office, regarding the MOU. Ms. Morley stated that the Curriculum Committee is asking for comments regarding the draft MOU that's why the item was put as an action item on the Commission's agenda. Commissioner Sparks asked that possibly this item can be agendized this item for next week.

Commissioner Veronese asked about liability to the Police Department. Sgt. Fatooh stated that this is part of their regular police duties.

Commissioner Orr-Smith asked that this item be calendared for next week and hopefully recommend comments and move it forward.

Angie Miller, Legal Office of the School District, addressed the Commission and stated that they are having the curriculum committee meeting on the 16th and it will start at 7:00 p.m. She stated that if the comments are not received by the 16th, it will not be forwarded to the full board but it doesn't mean that they couldn't be forwarded to the full board members as an informational item.

Brian Nuker, 2003-2004 Student Body President at Abraham Lincoln High School. He stated that since he has been at Lincoln, they have had the SRO for many years and not only has he been a police officer, he's been a friend, a mentor, and someone he can go to for help. He stated that the officer is always there for him and his friends and is someone he could look up to and someone that he can go to if he needs advise. He stated that the SRO at Lincoln is a wonderful example of how this program has helped so many kids.

PUBLIC COMMENT:

Parent from Lincoln High School, supports the SRO program and stated that he feels safe when his kid at the school has a police officer on site.

Unidentified suggested that someone be appointed so that kids can go to them with their concerns.

Mrs. McArthur, onsite school counsel member, thanked the Commission for a good job being done. She requested that this program should be extended because it does help the kids. She stated that the officers are getting better and better with the officers on site.

Peggy Dorhman, Director of Sales in Corporate Events for Lowes Theaters at the Metreon, stated that it's been her honor and privilege to work with three chiefs for doing Chief's Day at the IMAX where the Chief of Police and the officers bring in 600 kids per showing to come and see a movie. She hopes that this program be extended and commended Chief Fong.

Frank Taland, Assistant Superintendent, stated he was a product of San Francisco back in the 50s and 60s. He stated that he wished there was an SRO program during his days. He stated that there aren't enough role models for young people today. The police officers that are on the campuses have been wonderful role models for all of the students. He commended Sgt. Fatooh for her work in the SRO Program.

Derrick Green stated that this is new for him because he used to be on the other side instead of trying to help somebody. He stated that today he's trying to help somebody. He stated that the officers helped his daughter to get in to Marina Middle School. He stated that him and his wife volunteer as parent security. He stated that he thank God for the SROs in Marina Middle School.

Gwen Chen, Chief Development Officer for the San Francisco Unified School District, stated that she is also the liaison to the San Francisco Police Department and all City Departments. She stated that the SRO Program appears in school fairs, they work with parents, they do training, and thanked Sgt. Fatooh and the SROs for keeping the staff and student safe and asked that the Commission give consideration and endorse the MOU.

Susan Wong, School District Employee, stated that she has had some of the same training that the SROs have had with regards on how the schools and the Police Department should work together. She stated that the SROs have been very professional and have always had the interests of the children at heart and that they are not interested in criminalizing the children. Urged the Commission to endorse the MOU.

Ron Pang, Principal of Abraham Lincoln High School, stated that having an SRO on site really serves a wonderful purpose and that is to connect with the youth. He stated that the SRO serves as a very good resource. He extended an invitation to the Commission to come to Lincoln to see a program that's working.

Erica Davis, Assistant Principal Lincoln High School, stated that the SROs she has worked with have always been professional and have always been an important part of the school itself. She stated that safety is the number one concern on the campuses. If the school is not safe, there is no education going on. She stated that having an SRO on campus helps to insure that safety.

Max Lansome, Youth Commission, and a student at Washington High School where they have an SRO. He presented recommendations to improve the program.

Peter Lagaborne, Youth Commission, talked about the recommendations to improve the SRO program.

Kim, San Francisco School District Parents Advisory Counsel, stated that they received a copy of the MOU and stated that the Commission ask for an extension in turning their comments in. She talked about the four resolutions from the Youth Commission.

COMMISSION ANNOUNCEMENTS

a. **Scheduling of items identified for consideration at future Commission meetings.**

b. **Discussion of possible dates for future Police Commission training**

Commissioner Keane would like a report from the Department as to what resources are available for police officers for alcoholism and drug abuse problems particularly in regards to the stress of police work.

Commissioner Veronese asked about resources for victims involving police officers.

Commissioner Orr-Smith stated that the on the first Community Meeting she would like to calendar outreach for that meeting so that there is good participation and that the community feels welcome and invited to come.

PUBLIC COMMENT:

Mark Schlosberg, ACLU, discussed items that need to be put on the calendar.

Ernestine discussed concerns regarding alcohol and drug abuse.

Commissioner Renne stated that Public Comment is limited to two minutes each to accommodate everyone.

PUBLIC COMMENT

Malaika Parker, Bay Area Police Watch, stated she was out on the scene of the protestors being arrested and she stated that there was not an order of disburse issued and there were people that were abused and there were people that were wrongfully arrested. She thanked the Commission for releasing the names of the officers involved in the Boyd matter.

Marylon Boyd, Justice for Cammerin Boyd, thanked the Commission for releasing the names of the officers but it is insufficient since the information does not say who shot her son and urged the Commission for a Federal Hearing in the matter.

Ernestine discussed concerns regarding response from the police department. She stated that two cops be available at the Ferry Building area to help her.

Meesha Irizarry, Idriss Stelley Foundation, discussed concerns regarding the Thurgood Marshall incident.

Salvador Flores, Photographer, discussed concerns regarding OCC Case 0826-23. He stated that the complaint was sustained against three officers. He stated that he has been harassed by two of the officers involved.

Victoria Welly, San Francisco resident, discussed concerns regarding the Biotech demonstrations and that she was a victim of a mass arrest.

David, Bay Area resident, discussed concerns regarding mass arrest

made last night.

Barry Toronto thanked the Department for security provided at SBC Park on Sunday. He also thanked Lisa Frazier for stopping illegal taxi activity in the Mission District. He also stated that the Police over reacted at the Moscone area during the Biotech Conference.

Jessica Guadalupe Tobar discussed concerns regarding mass arrest during demonstrations.

Unidentified discussed concerns regarding overtime by police.

Carla West, Oakland resident, discussed concerns regarding arrests at Fifth and Market Streets.

Mauri Lassiter, San Francisco resident, discussed concerns regarding arrests at Fifth and Market Streets.

Unidentified discussed concerns regarding Biotech demonstrations.

Star Hawk, San Francisco resident, discussed concerns regarding arrests at Fifth and Market Streets.

Steve Jacobsen, Bay Area resident, discussed concerns regarding Biotech demonstrations.

Barbara Deuch, San Francisco resident, upset because a friend of hers is in jail.

Amy Shaunwald arrested at 5th and Market Streets and stated no order to disperse.

Josh Wolf, San Francisco resident, discussed concerns regarding his arrest at the demonstrations.

Gavin, Senator at City College of SF, discussed concerns regarding actions of the police department during protest.

Jedd Wheeler discussed concerns regarding actions of police during arrest at demonstrations.

COMMISSION ANNOUNCEMENTS

b. Discussion of possible dates for future Police Commission training

Commissioner Sparks announced that training for the Police Commissioners will be on June 26th at the Police Academy.

PUBLIC COMMENT

Daniel Boyle, San Francisco resident, discussed concerns regarding demonstrations and stated there was an incident where a person was arrested and OCC was no where around and stated OCC approached after the person was arrested.

Cory Higgs, Sonoma County Green Block, discussed concerns regarding arrests.

Tea Jennings, San Francisco resident, discussed concerns regarding arrests.

Unidentified, discussed concerns regarding arrests at 5th and Market Streets.

Marjorie Miller thanked the Commission and Chief Fong for listening and discussed concerns regarding arrests.

Christopher Peace, Bay Area resident, discussed concerns regarding arrests.

Deirdra O'Mancini, teacher, discussed concerns about arrests.

Jim Dorhncat discussed concerns regarding arrests during demonstrations.

Camila Schneider, Potrero Hill resident, discussed concerns about arrests during demonstrations.

Medina discussed concerns regarding protests during the Biotech conference.

Charles McNally, Bay Area resident, discussed concerns regarding protests during the Biotech conference.

Jenny Yang, Bay Area resident, discussed concerns regarding protests during the Biotech conference.

Rita discussed concerns regarding demonstrations and actions of police.

Jane Doe, community called Possible, discussed concerns regarding protest and actions of police.

John Hepburn discussed concerns regarding protest and actions of police.

Patrick, Bay Area resident, discussed concerns regarding actions of police.

Jeremiah, San Francisco resident, discussed concerns regarding actions of police during protests.

Toni Cox discussed concerns about actions of police during protests.

Unidentified, Southern California resident, discussed concerns regarding actions of police during protests.

Unidentified discussed concerns regarding actions of police during the protests.

Unidentified discussed concerns regarding actions of police during protests.

Unidentified discussed concerns regarding actions of police during protests.

Thereafter, the meeting was adjourned at 11:00 pm.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

1273/rct

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JUNE 16, 2004
5:30 p.m.

CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

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Commissioner

JOE VERONESE
Commissioner

LT. EDWARD GEETER
Secretary

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16/04
2

Closed Session (4:30 p.m.) in ROOM 018 (basement)

Roll Call.

1. Public Comment on all matters pertaining to the Closed Session.

2. Vote on whether to hold Closed Session to confer with legal counsel. (San Francisco Administrative Code Section 67.10(d)) (ACTION ITEM)

3. Closed Session pursuant to Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d).

   CONFERENCE WITH LEGAL COUNSEL - Existing Litigation
   a. Schiff v. City and County of San Francisco, U.S. District Court for the Northern District of California, Case No. C03-04345 JCS

Open Session (5:30 p.m.)

Reconvene to Open Session.

Pledge of Allegiance; Roll Call

4. Vote to elect whether to disclose any or all discussion held in Closed Session (San Francisco Administrative Code Section 67.12(a))

5. Chief's Report (DISCUSSION ONLY)
   a. Report on Department's Response to the Demonstrations of June 7 - 9, 2004
   b. Review of Recent Activities

6. OCC Director's Report (DISCUSSION ONLY)
   a. Report on the Demonstrations of June 7 - 9, 2004
   b. Review of Recent Activities

7. Discussion and possible action to approve the Police Department's budget for fiscal year 2004-05

8. Discussion and possible action to approve the OCC's budget for fiscal year 2004-05

9. Discussion and possible action to respond to a request from the Curriculum Committee of the San Francisco Unified School District for comment on the draft School Resource Officer Memorandum of Understanding between the District and the Police Department (ACTION ITEM)

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO
SAN FRANCISCO POLICE COMMISSION AGENDA

LOUISE RENNE
PRESIDENT

GAYLE ORR-SMITH
Vice President

DOUGLAS CHAN
Commissioner

PETER KEANE
Commissioner

THERESA SPARKS
Commissioner

DR. JOE MARSHALL
Commissioner

JOE VERONESE
Commissioner

LT. EDWARD GEETER
Secretary

REGULAR MEETING
WEDNESDAY, JUNE 16, 2004
5:30 p.m.

CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

10. October 11, 2002 Incident at Thurgood Marshall Academic High School (DISCUSSION ONLY)
    a. Presentation of report from the OCC regarding the status of its investigation of the Thurgood Marshall incident
    b. Presentation of report form the Police Department regarding any action taken with respect to the Thurgood Marshall incident
    c. Discussion and possible action to calendar a hearing on the Thurgood Marshall incident for a date certain

11. Commission Announcements (DISCUSSION ONLY)
    a. Scheduling of items identified for consideration at future Commission meetings

12. Approval of minutes of the Police Commission Meeting of May 26, 2004 and June 2, 2004 (ACTION ITEM)

13. Public Comments
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

PLEASE NOTE: The Police Commission will be holding two public, Special Meetings this month at locations other than City Hall.

1. ***The Commission will hold its first Community Meeting at the Southeast Community College, located at 1800 Oakdale Avenue, San Francisco, at 6:00 p.m., on Wednesday, June 30, 2004, to hear comments from the public and Bayview Captain Rick Bruce concerning public protections issues in the Bayview District.***

2. ***The Commission will meet from 8:00 a.m. to 5:00 p.m. on Saturday, June 26, 2004, at the Police Academy, 350 Amber Drive, San Francisco, to receive training form the Police Department on the Department's operations and procedure.***

The Commission will hear public comment on all agenda items before or during discussion of the item. Public comment is limited to three minutes for individuals and five minutes for representatives of organizations.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-5163; E-MAIL: Donna Hall@ci.sf.ca.us. COPIES OF THE SUNSHINE ORDINANCE CAN BE OBTAINED FROM THE CLERK OF THE SUNSHINE TASK FORCE, THE SAN FRANCISCO PUBLIC LIBRARY, AND ON THE CITY'S WEBSITE AT www.ci.sf.ca.us/bdsupers/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics.

SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A **sound enhancement system** will be available on request at the proceeding.

Meeting agendas and other print materials will be made available in **alternate formats** (computer disk, cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products.

The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

JUNE 16, 2004 CLOSED SESSION

The Police Commission of the City and County of San Francisco met in Room 018, City Hall, #1 Dr. Carlton B. Goodlett Place, San Francisco, at 4:45 p.m in Closed Session.

PRESENT: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

CONFERENCE WITH LEGAL COUNSEL - Existing Litigation

a. Schiff v. City and County of San Francisco, U.S. District Court for the Northern District of California Case No. C03-04345 JCS

JUNE 16, 2004 REGULAR MEETING

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton B. Goodlett Place, San Francisco, at 5:40 p.m. in a Regular Meeting.

PRESENT: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

No Public Comment

Commissioner Keane entered a motion not to disclose discussion held in Closed Session. Second by Commissioner Veronese. Approved 7-0

CHIEF'S REPORT

a. Report on Department's Response to the Demonstrations of June 7 - 9, 2004

b. Review of Recent Activities

Chief Fong introduced Deputy Chief Suhr to make the presentation regarding the demonstrations.

Deputy Chief Suhr stated that Saturday was the first day of Biotech. He stated that the Department had planned for these events for approximately six months. The department polled a lot of information from the media that stated thousands will go to SF to shutdown biotech et cetera.

On Saturday,10,000 people marched protesting the war. Five arrests were made. Out of the five arrests, three were charged by the District Attorney for failure to obey a traffic officer, blocking the roadway, and delaying arrest. On Sunday, there was only one arrest for a strong arm robbery. No arrest for the demonstrations.

Monday, the Department was in emergency mobilization. Five arrests were made by the CHP at the State Building. Tuesday was set to shut down biotech. It started at about 6:00 a.m. 28 persons were arrested. 24 protestors sat at 4th and Howard Streets. 12 of the 24 linked arms with sleeves (Chief Suhr showed the Commission an actual sleeve). Chief Suhr explained that before the sleeves were sawed off by the Fire Department. This year, the department picked up everybody that was sleeved and rolled them out of the way and placed in a safe area out of traffic. Five arrests were made when demonstrators went under buses. Of the 24 arrested, at 4th and Howard, 12 were charged and asked to pay for the citation. The 12 that were sleeved were charged with misdemeanor. Of those at 4th and Howard, they were rebooked

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and the person was rebooked for aggravated assault on a motorcycle lieutenant.

At about 6:00 p.m. another march occurred and believing that people were going to SF Center, they were encircled, admonished, and arrested. None were juveniles. 110 were arrested and none were juveniles. Everybody that provided names were cited and released and the ones who didn't stayed in jail. 38 remained in jail until Friday morning. The judge ordered them to provide names or be held in contempt. Everybody gave names and by Friday evening everybody were released.

One unfortunate incident that took place, the deputy director for cancer research was stuck with a syringe as she moved from one building to another. The stick caused a rash. She was treated and released but it was a very traumatic experience for her. On Wednesday, the Department scaled back to cut down on overtime. The conference was not shut down. 12 cases were handled by the Inspectors Bureau including the needle stick. Nine of the 12 were rebooked and prosecuted by the District Attorney's office.

PUBLIC COMMENT:

Linda Magellum, Executive Director for the Union Square Association, thanked the Department for year round service. Also to say thanks for the efforts made by the Department to protect the area during the Biotech conference.

David Heller, President of the Greater Geary Blvd. Association, thanked SFPD for a great job done during the demonstration. He stated that it was amazing the way the Department handled the demonstration and hopes that the Commission will support the police.

Mark Intermagio, Executive Vice President of the Building Owners and Managers of SF, stated the men and women of department are trusted and praised members of the department and stated that it is a difficult job to be members of the SFPD. He stated that the department does a fine job and thanked the Department for providing public safety.

Chief Fong updated the Commission regarding the Lieutenant's list. The list expired Monday. As a result 14 sergeants were promoted to rank of Lieutenant and two positions filled to the rank of Captains. Chief Fong stated that the Department no longer have a lieutenant's list at this time but she will be meeting with the Civil Service Commission to outline the projected schedule to have an exam.

PUBLIC COMMENT:

None

OCC DIRECTOR'S REPORT

a. Report on the Demonstrations of June 7-9, 2004

b. Review of recent activities

Director Allen stated that one of the functions of the OCC is to monitor protests. OCC jackets and hats are worn to identify who they are. They do not try to interact with officers or protestors. Information about the protest were received early on. OCC contacted Deputy Chief Suhr who told them there was a training to observe and learn where police will be deployed.

On Sunday, OCC monitored the demo by PIC radio. Nothing happened on Sunday. On the 7th nothing occurred. Two investigators walked the area of Moscone to see if there's anything going on. On Tuesday, investigators went down to the scene. At about 1030 a.m. the team came back. Informational briefs were put in the files. All in all it seemed to be a fairly peaceful demonstration.

Commissioner Keane asked about one incident where the person stated that she has seen one OCC investigator say to the police officer, "I'll be a witness for you" and asked Director Allen if he has checked into that. Director Allen stated that he has been informed by all incidents viewed by OCC investigators but he did not know which arrest was talked about and he reviewed information in the office and stated that OCC investigators will cooperate and try to maintain neutrality. Director Allen also stated that the incident has been discussed by the management team, himself, and as a result they have sat down and tried to work on a policy.

Commissioner Chan asked if OCC have any rules as to conduct of monitors or investigators in connections with demonstrations? Director Allen stated that the rules would mirror the same rules as if they are on a ride along. They are there as a neutral party and they will not interact with police and citizen. They are just there as neutral observers. There are existing guidelines. He will revisit and change policy.

Commissioner Chan asked about the word monitor? Director Allen stated that investigators generally have a tape recorder and they might keep a running log as to what is being observed. No strict guidelines as to what notes should be taken. Logs are transcribed and put in files.

Commissioner Chan asked to what extent are OCC personnel trained with respect to the evaluation of crowd control techniques? Director Allen stated that personnel are trained through the POST crowd control training and will try to get investigators to attend the training. There will always be somebody there during training.

Commissioner Sparks asked what is the identifying outfit worn by OCC personnel? Director Allen stated that a beige vest and the on back is says OCC, blue jacket with OCC writing, hats with OCC, orange vest with OCC Director, and for a ride along Kevlar vest had to be worn. He also stated that OCC people were present on Tuesday and monitored by radio on Sunday and on Monday, two individuals walked the perimeters, but they concentrated on Tuesday. There is one complaint made and normal investigation is on going.

PUBLIC COMMENT

Mariam McCune, General Manager of Yerba Buena Gardens, stated that her and her staff were invited in months ago by the Department and were made aware of all plans and she was asked by the entire community to address the Commission. She stated it was well thought out and well managed and stated that they were all present with all eyes on police and demonstrators. She was asked by SOMA Childcare Center address the Commission to thank the police on their behalf. There's 100 children in that facility and stated that Captain Dillon made sure that someone from the center is always present when dropping off and picking up children. Yerba Buena Center of the Arts also wanted to thanked the police for their presence during demonstrations. She extended thanks and appreciation for how well it went.

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE POLICE DEPARTMENT'S BUDGET FOR FISCAL YEAR 2004-2005

Deputy Chief Parra gave an update on the budget process. The budget has been submitted to Mayor's Office. Chief Parra introduced Captain Lynch to give a brief update.

Captain Lynch, Fiscal Division, stated that on June 1st the Mayor submitted his overall budget to the Board of Supervisors. Captain Lynch described the SFPD budget. Captain Lynch described some of the highlights of the proposed budget which include the addition of 40 members through a new

academy class, improved technology through the Records Management System and the Justice System, increased police resources dedicated to the several of the city's Housing Authority sites and grand funding to support significant improvement in the Department's response to Homeland Security. Since reviewing this budget proposal, the Department has requested that a technical adjustment be made to the Police budget in the amount of approximately $367,567. This request is to restore appropriate funding to the uniform and equipment budget in the amount of approximately $344,000. The deletion of approximately $36,000 in equipment request and personnel adjustments related to the funding of two current security guards positions and the addition of an injury and illness prevention program administrator. These requests are being evaluated by the Mayor's budget office.

Commissioner Chan asked under the proposed budget how many members will be in the Department's payroll, civilian & sworn? Captain Lynch stated approximately 2,087 and that's not including the Airport Bureau. Captain Lynch stated that Airport Bureau funding is treated as a work order agreement between the Airport Commission and the Police Department.

Commissioner Veronese asked about settlement and lawsuits. Captain Lynch stated that it is a lined item and is approximately $825,000. Commissioner Veronese asked about gun replacement change and why and is the Department doing anything to get funds? Captain Lynch stated that the Department have been working with the Beretta and SIG-Sauer and there have been attempts to work with current manufacturers and there is also as buy-back. Chief Parra stated that discussions with Beretta and they do want weapons back and the Department will get some credit as part of the buy-back from Beretta. It's going to be an exchanged one for one from each officer in the field and then a buy back from Beretta to the department. Commissioner Veronese expressed concerns regarding fire wall for stations and stated that a wall would cost so much, is there someone in department looking to see if there is a better way to do this? Captain Lynch stated that a lot of the project are put together by the Department of Architecture or the Department of Public Works. Sergeant Julie Lynch explained that since 1997 funding to update three holding cells and that cost currently $472,000. What is done is a request is put through Department of Public Works and they will contract out if they feel they don't have the resources immediately available to handle that job. The number is the estimate for this current fiscal year.

Commissioner Sparks asked clarification about what looked like an overall three and a half percent increase in the overall budget funding. Captain Lynch explained that if you look at the lined items, the budget does look like an increase but the budget looks higher due to fixed costs which are related to collective bargaining agreements that include worker's comp increases, contributions by the city for retirement by the employer, roughly about $10M estimate for the next fiscal year. Overall budget increased due to fixed costs and collective bargaining and the department has no control over those fixed costs. Commissioner Sparks asked if there are increases on investigations, homeland security, or is it pretty much the same emphasis as far as personnel distribution as it was last year. Captain Lynch stated there was strong emphasis on investigations. The Department have made strong efforts to make sure the Crime Lab is fully funded and that appropriate funding is there to provide for materials and supplies requests within that division. Personnel transfers are also at a higher level than what investigations were at the beginning of this fiscal year.

Commissioner Keane asked what was history for going into supplementals? Captain Lynch stated that during the current fiscal year, the Department did not go in for any supplementals. Captain Lynch stated that there is a potential cost since it is an election year, however, the Department is committed to live within its existing budget and beyond events that foreseen,

he does see looking for supplemental. Supplementals are asked for overtime costs for example like the demos.

Commissioner Renne asked about guns purchased and what is Beretta going to do when guns are taken back and what they intend to do with the guns? Captain Lynch explained that was a concern for the department. Deputy Chief Parra stated that that was a concern with the SFPD and the gun manufacturer. Deputy Chief Parra stated that he will look into the question of what the gun manufacturer will do after the buy and report back to the Commission.

Commissioner Orr-Smith asked if with this budget will all stations be computerized. Captain Lynch deferred questions to Lt. Gitmed. Lt. Gitmed, MIS, stated that the department and all stations are equipped with old system and in process of reintegrating new system. The new RMS will provide real time information to the public and is also available through the website. It is the Department's intention to give real time information to the department and the community in either logs or reports.

Commissioner Sparks asked about budget regarding Public Heath cuts and the Police Budget as possibly a target for reduction to cover public health cuts. Does the Dept have a plan B as to where reduction would come from and do you lobby or make presentation to the Board? Captain Lynch stated there is a plan B in the works and will try to stand by the current budget proposal.

Commissioner Orr-Smith asked if there are grants available for new technology. Lt. Gitmed stated yes there is and is working with several vendors for gift and grants coming from the feds.

PUBLIC COMMENT

Michael Petralis stated a copy of the actual budget is not available to public and asked that such documents be available. He stated he is concern about broadcast of meetings and asked that Chief Fong look for some money for community outreach to air commission meetings.

Commissioner Renne stated that it will costs $1,000 per three hours and additional $180 for every additional hour after that.

Leroy Moore, Advocate for People with Disabilities, stated that he doesn't understand why the Police Department's budget increases and other departments get cut.

Frank Martin Del Campo, SEIU Local 790, asked that copies be provided to the public and asked the Commission to look into televising the meetings.

Commissioner Renne asked if action should be taken. Ms. Morley stated that Commission have a duty to approve the Department's budget each year.

Motion by Commissioner Chan to approve the budget.

Commissioner Veronese stated that approval should be after the OCC budget is presented.

Commissioner Renne stated that budget have to be approved by July 1st and the Commission needs to approve the budget.

Commissioner Marshall asked that the Commission wait until the OCC budget is presented.

DISCUSSION AND POSSIBLE ACTION TO APPROVE THE OCC'S BUDGET FOR FISCAL YEAR 2004-05

Director Allen presented the OCC budget and stated that there are movements in separating the budget and but they are two separate budgets. One of the changes is that attorneys are reclassified to one step whereas before there were different steps. The attorneys have been reclassified. Three attorneys at the OCC. There was two reductions taken. One is $115,000 and the other is $126,000. The $115,000 reflect the large number in the step increase with the attorneys. The $126, 000 is what is considered the adjustment necessary, step adjustment necessary in the OCC office. OCC is budgeted at $1,994,000 and there was question as to why such a large step decrease. There is a request with the Mayor's office to get that step increase back. If budget is not adjusted, OCC will request for a supplemental appropriation. Director Allen asked that the Commission adopts the budget.

Commissioner Renne stated that Mr. Rosenfeld, Mayor's Budget Director, stated there will be some adjustments by July 15th.

Commissioner Sparks discussed comments written in the budget by Director Allen. Commissioner Sparks asked that in approving the budget, direct the Director to seek for a supplemental increase to the budget after its approved by the Mayor's Office or the Board.

Commissioner Keane encouraged Director Allen to get in there and fight for the budget and fight for what he needs for the OCC office and its personnel.

PUBLIC COMMENT

None

Motion by Commissioner Chan, second by Commissioner Marshall with friendly amendment as it relates to OCC. And to increase the SFPD approximately $65,000 to televise the Commission meetings.

Amendment to request for an additional $75,000 increase for SFPD to televise Commission Meetings.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

Approved 7-0

Motion for Amendment for supplemental for OCC as a condition of OCC budget, the OCC Director immediately requests a Supplemental to backfill the positions vacated.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

Approved 7-0.

Motion to approved SFPD and OCC budgets with amendments.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

Approved 7-0.

Commissioner Sparks also stated that the Commission would be happy

to assist in lobbying the Board and asked the Department to feel free to call upon the Commission if they can be of service in lobby for the Department's budget.

RESOLUTION NO. 58-04

APPROVAL OF THE SFPD BUDGET FOR FISCAL YEAR 2004-2005

RESOLVED that the Police Commission hereby approves the SFPD budget for fiscal year 2004-2005 with an amendment to request for an additional $75,000 to televise the Police Commission Meetings.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

RESOLUTION NO. 59-04

APPROVAL OF THE OCC BUDGET FOR FISCAL YEAR 2004-2005

RESOLVED that the Police Commission hereby approves the OCC budget for fiscal year 2004-2005 on a condition that the OCC Director immediately requests a Supplemental to backfill vacated positions.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

COMMISSION ANNOUNCEMENTS

a. Scheduling of items identified for future commission meetings.

Taken out of Order

Commissioner Renne announced the meeting for the 30th will be at the Southeast Community.

PUBLIC COMMENT

Mark Schlosberg, ACLU, asked that items be scheduled for a date certain in particular policy recommendation regarding OIS policy, the OCC Outreach plan, and Commissioner Keane's resolution.

Leroy Moore asked about outreach for community meetings.

Deputy Chief Suhr stated that in addition to the calendar by the Department, the email program by Captain Bruce has over 600 people that get that daily.

APPROVAL OF MINUTES FOR COMMISSION MEETING OF MAY 26, 2004 AND JUNE 2, 2004

PUBLIC COMMENT

None

Motion by Commissioner Marshall to approve the minutes for Commission meeting of May 26, 2004 and June 2, 2004. Second by Commissioner Veronese. Minutes approved 7-0.

Motion to Commissioner Chan to excuse Commissioner Renne. Second by Commissioner Veronese. Approved 7-0.

(The Commission took a break from 8:40 p.m. to 8:50 p.m.)

DISCUSSION AND POSSIBLE ACTION TO RESPOND TO A REQUEST FROM THE CURRICULUM COMMITTEE OF THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT FOR COMMENT ON THE DRAFT SCHOOL RESOURCE OFFICER MEMORANDUM OF UNDERSTANDING BETWEEN THE DISTRICT AND THE POLICE DEPARTMENT

Commissioner Orr-Smith stated this is a continuance of last week.

Commissioner Marshall asked that he be recused because he was part of the Community Task Force re: Thurgood Marshall Incident. Commissioner Marshall also asked if he has to excuse himself on the matter of the School Resource Officer MOU. Ms. Morley stated that he might want to be excused. Commissioner Marshall asked that he be excused.

Motion by Commissioner Chan to excuse Commissioner Marshall in regards to the Thurgood Marshall incident and the SRO MOU. Second by Commissioner Veronese. Approved 5-0.

Commissioner Orr-Smith explained that this item is the memorandum of understanding between the Department and the School District regarding the SRO program. This item is on the calendar for consideration for recommendation, either pro or con or any additional comments, to move this recommendation forward.

Motion by Commissioner Chan for discussion and move to approve draft of MOU in the form submitted to the Commission. Second by Commissioner Sparks.

Commissioner Orr-Smith asked Chief Fong if there is further update on MOU.

Deputy Chief Suhr introduced Officer Lois Perillo of the SRO Program. Officer Perillo stated she just came from the Curriculum meeting and stated that what they have done is they have taken more recommendations from various community organizations and agency and they moved to postpone their action on the item and it has gone back to Angela Miller who is the Board's attorney who will revise it and present it to the full Board on Tuesday but they are looking forward for Commission's input. Officer Perillo stated that the Youth Commission commented and the United Educators commented and added a little bit to what already existed.

PUBLIC COMMENT

Max Lyons, Youth Commission, presented recommendations to the Commission and asked that their recommendations be added to the Commission's recommendations.

Channel Williams, SF Youth Commission, stated that as far as the MOU, their recommendations are needed and stated that there should be a mutual respect and that students should be informed of the MOU.

Commissioner, Parent Advisory Counsel to the School Board, talked about the grievance process.

Commissioner Sparks asked if the Chief or the Department have any comments regarding the two amendments.

Chief Fong stated that they have seen the comments from the Parent Advisory Counsel and the Department have not seen the comments from the Youth Commission and would like to review those comments. Chief Fong stated that the Department have reviewed the MOU and agrees to the MOU moving forward to the Commission.

Commissioner Sparks asked that the Commission defer the conclusion of item until after Item #10 to allow the Chief and the Department to review comments from the Youth Commission.

OCTOBER 11, 2002 INCIDENT AT THURGOOD MARSHALL ACADEMIC HIGH SCHOOL

a. Presentation of report from the OCC regarding the status of its investigation of the Thurgood Marshall incident

b. Presentation of report from the Police Department regarding any action taken with respect to the Thurgood Marshall incident

c. Discussion and possible action to calendar a hearing on the Thurgood Marshall incident for a date certain

a. Presentation of report from the OCC regarding the status of its investigation of the Thurgood Marshall incident

Director Allen stated that their investigation of the Thurgood Marshall incident was concluded on March 14, 2004 but the OCC is not at liberty to discuss its findings. In general there is policy failure found and will probably result in policy recommendations relating primarily to crowd control. He stated that he will discuss the policy failures at the hearing.

Commissioner Sparks asked if this will be presented to the Commission. Director Allen explained that if the OCC sustains a complaint against the Department and if it was deemed to be a Commission case, then it will be presented to the Commission. Director Allen stated if findings are found to be proper then findings are considered confidential.

Commissioner Keane asked about the investigation. Director Allen said it has been investigated and policy failures were found and stated nothing will be presented to the Commission.

Commissioner Veronese asked regarding policy recommendations and are they recommendations that should be considered by the Commission for the SRO agreement. Director Allen stated that there was failure in the policy and change in general order.

Commissioner Veronese asked what type of investigation was conducted as far as the report? Director Allen stated that this incident was handled by senior and chief investigators to determine allegations that came in. The senior investigator went through this to determine what is to be done and how far will it go. He stated that full resource of OCC was put into this investigation.

Commissioner Veronese asked that Director Allen look at the Task Force Report regarding Thurgood Marshall incident. Director Allen stated that the investigators will not be able to answer specific questions due to confidentiality of the investigation.

Commissioner Orr-Smith asked if the findings of the OCC relative to policy failure is already available to the public. Director Allen stated that the redacted form is available to the public but the OCC cannot reveal facts of the case. Preliminary findings are just preliminary. The Chief has the final say based on OCC's recommendations but those recommendations are available to the public.

Commissioner Keane asked about findings that are not sustained or findings to go to the Chief are confidential. How about complaints put in by citizens, are they confidential? Director Allen stated that the only people that will receive the complaints are the citizens reporting and the officers involved.

Commissioner Keane asked what policy commands confidentiality? Director Allen stated 832.5 is the policy. Commissioner Keane stated that he believes complaints are not confidential. Director Allen stated that he has to confer with the City Attorney.

Commissioner Keane stated concerns that the Commission never followed up on letter by Mark Sanchez, Board of Education.

Commissioner Orr-Smith stated that there was a letter from former Commissioner Perry in response to the letter sent by the Board of Education. Commissioner Perry recommended that two of the Police Commissioners will participate in a hearing but there was no subsequent response from the School Board. With all time that's lapsed, there should have been some follow up.

Commissioner Chan asked a few questions regarding letter written by Commissioner Perry. Lt. Geeter stated that he had a conversation with the Board and they stated they will get back to the Commission. Lt. Geeter stated that no return calls were made to him. Commissioner Chan stated that Commissioner Sanchez have mischaracterized the situation between the Board of Education and the Police Commission.

Commissioner Chan expressed concerns and urged the Commission to exercise caution. He asked Director Allen when will discussion happen regarding policy recommendation. Director Allen stated that amendments have been made and the minute he can hire a policy writer, he will work with the Chief, legal staff and so on to get the recommendation done as soon as possible. Commissioner Chan asked if Director Allen has any suggestions regarding what the Commission should do. Director Allen stated that a hearing be done as soon as possible and that he has spoken with the Secretary of the Board of Education as far as the policy recommendation and once recommendation is given to the Commission, it should be approved and adopted.

Commissioner Sparks asked event occurred October 11, 2002 and task force completed its recommendations on December 2002 and the OCC investigation was completed in March, 2004. Commissioner Sparks asked that the Commission need to proceed on this as quickly as possible and expedite this as quickly as soon as possible and try to get this done by July 1st. Director Allen expressed frustration and defended his investigators and stated they worked hard in obtaining information. The office did have a difficult time obtaining information from the public but it is not lack of neglect on the part of the investigators of the OCC.

b. Presentation by the Police Department regarding any action taken with respect to the Thurgood Marshall Incident

Deputy Chief Suhr presented a report regarding the Thurgood Marshall incident and explained what happened during the incident. All these are included in the report furnished to the Commission. Deputy Chief Suhr stated that in the morning of October 11th, three juvenile males were in an altercation which was broken up by the two SROs assigned to the school. They were taken to the principal's office where their parents were called because they were going to be suspended and then attempted to be relocated. One of the kids, when his family member arrived with a friend, that friend became engaged in an altercation in the hallway right when classes were breaking and the hallways were very crowded. The officers were with the family member and the child from the earlier fight. The officers heard the altercation in the hallway, saw a big crowd, there was a fight. The kids thought that the officers were taking the friend of the family relative because he was in custody as a suspect after he had been hit in the head. That is not why the officers were taking him to the office. They were taking him to the office because they

wanted to get him out of the hallway so he can get medical attention. The kids started to pull at this guy, saying that he was the wrong person. By both accounts, Lt. Williams' account and the independent reports, speak to the fact that there were large crowds, there were multiple fights, fire alarms were going off, and in the middle of all these were two officers. They called for assistance and officers responded into the school. Several incident took place within the different fights. Officers were banged around. Kids were bumped and jostled. One officer's baton was taken from his baton ring. He drew his firearm, recovered his baton, reholstered his firearm. All these happened, not in the course of a few minutes, but in the course of several hours. Chief Suhr stated that he ended up responding about an hour and a half after it started because when it first happened and the officers arrived, the Department thought it would end. The school administrator thought that it would be best to recess school, and then everything took to the streets in and around Thurgood Marshall, down to Silver Avenue. The Sheriffs Department had been training down the block and was in full SWAT or riot gear. They responded in a van and that exacerbated an already hectic situation in the area of Bayshore and Silver. After some time, it did calm down. There were multiple factors that were involved: 20 percent of the teachers called in sick that day. There were some issues with a very popular SRO having been relocated. And its one of those incidents that the Police Department would certainly have gone a hundred percent a different way.

Deputy Chief Suhr stated there were meetings with the School Board at Thurgood Marshall within days of the incident. There were a number of students present and by the end of the meeting there were good interaction and recommendations came up and many of which are included in the MOU.

Deputy Chief Suhr stated there were no charges filed against any of the children arrested.

Commissioner Orr-Smith asked Deputy Chief Suhr to stop with his presentation and to reserve the rest of his presentation.

Commissioner Keane moved to set date certain for a hearing regarding the incident of Thurgood Marshall and that Commissioner Orr-Smith write a letter to Board of Education to invite them to the hearing, and that at the hearing, the Commission get as much public testimony as well as further presentation by Deputy Chief Suhr and any other departmental observations that might be germane to it.

Commissioner Veronese would like to see that the Department or the OCC have some report at that time to have more understanding from the Police Department and the OCC.

Commissioner Keane asked City Attorney to take a look if actual complaints are confidential and that the City Attorney come back with answer before hearing date so that that can be discussed before the hearing.

Commissioner Veronese asked that a Closed Session be set so that it can be discussed what is confidential or what is not confidential. Ms. Morley stated that it can be done through attorney- client.

Commissioner Chan expressed concerns as to the scope and objective to be served by having such a hearing. He asked that if we do convene that it be with a specific purpose in mind to solicit testimony responsive to evaluating need for specific policy reforms or modification of current practices and that the Commission view this process with point of view of actually taking action rather than simply a recounting of events that now have occurred many many months prior and that the Commission's objective is to evaluate whatever policy recommendations might be made and that be the end product of the

hearing.

Commissioner Orr-Smith stated that the Commission is a policy body and its function and its purpose is to review all reports and what is before the Commission is the opportunity to make a policy but we have not taken input from the Community.

Commissioner Chan stated the public be informed as to the hearing.

Commissioner Sparks asked if the Department did a separate investigation on this incident. Deputy Chief Suhr stated no that is the OCC's duty to do the investigation. Commissioner Sparks asked if there is pending litigation in this matter. Ms. Morley stated she doesn't know if there is any litigation filed with the City. Commissioner Sparks asked if the Department can respond to questions by the Task Force and give the Commission and the public the benefit of those answers. Deputy Chief Suhr stated yes.

PUBLIC COMMENT

Mark Schlosberg, ACLU, clarified some of the backgrounds about how this whole process developed. He asked the if Commission is going to have a hearing that it focus on policy recommendation.

Leroy Moore, Advocate for People with Disability, stated that it's too long for investigation and that public be notified.

Vannessa Moses, Bay Area Police Watch, suggested that have a concrete date and asked that location be close to the school or at the school so that community can access it easily.

Commissioner Keane stated that the Commission will not have any power to impose discipline as a result of the hearing.

Kim Fremont, former PTSA President for Thurgood Marshall, thanked Commission for having a hearing and that the new Commission and new administration has provided a more spirit of openness.

Max, Youth Commission, thanked the Commission for having the hearing. And would like to give the Commission videos and information taken during their hearings.

Michelle stated that there needs to be an end to secrecy. SRO and police officers should not be in the business of criminalizing young people.

Commissioner Sparks asked Lieutenant Geeter to get all the information so that the Commission can have as much background information before going in to the hearing.

Commissioner Keane motion set hearing on a date certain and suggest that it be done four weeks from today and that as much public publicity be made and that Commissioner Orr-Smith write a letter to the Board telling them about the hearing and incorporate that Commissioner Veronese and Commissioner Keane's request of the city attorney. Second by Commissioner Veronese.

Commissioner Sparks asked that cite be chosen.

Commissioner Orr-Smith asked that Commission have it at City Hall so that it's clear what the Commission is doing and would like to have it as part of a hearing.

Commissioner Sparks asked that it be held in the Southeast Community Center to hold it somewhere in the community. Commissioner Sparks asked that it be held in the community so that it be accessible to the community.

Motion to have hearing on July 14th in regards to the Thurgood Marshall Incident. Approved 5-0

AYES: Commissioners Orr-Smith, Chan, Keane, Sparks, Veronese
EXCUSED: Commissioners Renne, Marshall.

Motion by Commissioner Veronese to accept the MOU as written. Second by Commissioner Keane. Approved 5-0

AYES: Commissioners Orr-Smith, Chan, Keane, Sparks, Veronese 5-0.
EXCUSED: Commissioners Renne, Marshall.

Captain O'Leary asked about grievances. The Department needs to find out what that means and whether or not an SRO can take part in that process. 832.7 of the Penal Code regarding how much information can be released. The department can release regarding #, type, and disposition but will not identify persons involved.

Commissioner Orr-Smith asked if the Department needs more time regarding additions by the Youth Commission and if the Department can be ready to talk to the Commission in a week.

PUBLIC COMMENTS

Elizabeth Frantez discussed concerns regarding medical marijuana.

Reuben Goodman discussed youth commission meeting. He suggests that having a music event so that youth can be involved.

Mark, Youth Commission, talked about a great injustice and discussed incident that happened on June 13th on Harrison Street.

Unidentified, worked for GE, discussed concerns about being stopped by a cop and pulled over and cops asked him to get out of vehicle. He stated that he saw that guns were drawn and that his car was searched. He discussed concerns when police stopped him and that the incident was a case of mistaken identity.

Nicole Dursey, Youth Commission, addressed the Commission and asked that the Commission addressed the issues by young people.

Meeting was adjourned at 9:35 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

LOUISE RENNE
PRESIDENT

GAYLE ORR-SMITH
Vice President

DOUGLAS CHAN
Commissioner

PETER KEANE
Commissioner

THERESA SPARKS
Commissioner

DR. JOE MARSHALL
Commissioner

JOE VERONESE
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JUNE 23, 2004
5:30 p.m.

CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

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06-23-04A10:43 RCVD

Closed Session (5:00 p.m.)

Roll Call.

1. Public Comment on all matters pertaining to the Closed Session.

2. Vote on whether to hold Closed Session to confer with legal counsel. (San Francisco Administrative Code Section 67.10(d)) (ACTION ITEM)

3. Closed Session pursuant to Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d).

   CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: AS DEFENDANT
   Significant exposure to litigation against the City with respect to amendment of Department General Order 8.11 in light of 5/28/04 letter from the Police Officers' Association's attorney regarding meet and confer obligations

Open Session (5:30 p.m.)

Reconvene to Open Session.

Pledge of Allegiance; Roll Call

4. Vote to elect whether to disclose any or all discussion held in Closed Session (San Francisco Administrative Code Section 67.12(a))

5. Chief's Report (DISCUSSION ONLY)
   a Review of recent activities
   b. Report on the Department's Crisis Intervention Training
   c. Review on operations of the Department's Permit Bureau

6. OCC Director's Report (ACTION ONLY)
   a. Update regarding Policy Recommendations regarding officer-involved shootings and in-custody deaths
   b. Discussion and possible action to set a date for presentation of the OCC's report on implementation of its policy recommendations to the Police Department from 1999 through 2004
   c. Review of Recent Activities

The Police Commission

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JUNE 23, 2004
5:30 p.m.

CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

7. Discussion and possible action to approve Revised General Order 11.09, "Employee Assistance Program/Stress Unit" (ACTION ITEM)

8. Discussion and possible action to remove charges against Officer Laurence B. Barker from the Commission's calendar in light of Officer Barker's resignation (File No. C02-128 JWA) (ACTION ITEM)

9. Discussion and possible action to dismiss disciplinary charges against Officer David M. Burns (File No. OCC 0212-98), Officer Nikolaus Borthne (File No. OCC 0212-99), Officer Gabriel Gallaread (File No. OCC 0403-99), as required by the settlement of *San Francisco Police Officers Association v. CCSF,* San Francisco Superior Court No. 324625 (ACTION ITEM)

10. Discussion and possible action to create a Budget Committee and a Technology Committee of the San Francisco Police Commission (ACTION ITEM)

11. Discussion and possible action to appoint a Commissioner to monitor compliance with Department General Order 8.10, "Guidelines for First Amendment Activities" pursuant to section (VI)(A) and (B) of the General Order (ACTION ITEM)

12. Commission Announcements (DISCUSSION ONLY)
    a. Notice of assignment and setting of date for hearing on disciplinary charges filed against Officer Ricky E. Shaddox (File No. C04-097 JWA)
    b. Scheduling of items identified for consideration at future Commission meetings

13. Public Comment
    (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The Police Commission

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SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JUNE 23, 2004
5:30 p.m.

CITY HALL, ROOM 400
#1 Dr. Carlton Goodlett Place
San Francisco, California

***PLEASE NOTE**: The Police Commission will be holding two public, Special Meetings this month at locations other than City Hall.*

1. *The Commission will hold its first Community Meeting at the Southeast Community College, located at 1800 Oakdale Avenue, San Francisco, at 6:00 p.m., on Wednesday, June 30, 2004, to hear comments from the public and Bayview Captain Rick Bruce concerning public protections issues in the Bayview District.*

2. *The Commission will meet from 8:00 a.m. to 5:00 p.m. on Saturday, June 26, 2004, at the Police Academy, 350 Amber Drive, San Francisco, to receive training from the Police Department on the Department's operations and procedure.*

The Commission will hear public comment on all agenda items before or during discussion of the item. Public comment is limited to three minutes for individuals and five minutes for representatives of organizations.

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE
(Chapter 67 of the San Francisco Administrative Code)

Government's duty is to serve the public, reaching its decisions in full view of the public.

Commissions, boards, councils, and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE OR TO REPORT VIOLATION OF THE ORDINANCE, CONTACT THE SUNSHINE ORDINANCE TASK FORCE: DONNA HALL, ADMINISTRATOR, CITY HALL, ROOM 244, #1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA 94102-4689; OFFICE (415) 554-5163; E-MAIL: Donna Hall@ci.sf.ca.us. COPIES OF THE SUNSHINE ORDINANCE CAN BE OBTAINED FROM THE CLERK OF THE SUNSHINE TASK FORCE, THE SAN FRANCISCO PUBLIC LIBRARY, AND ON THE CITY'S WEBSITE AT www.ci.sf.ca.us/bdsupers/sunshine

Lobbyist Registration and Reporting Requirements
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign & Government Code §2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; webs site www.sfgov.org/ethics.

SAN FRANCISCO POLICE COMMISSION
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A **sound enhancement system** will be available on request at the proceeding.

Meeting agendas and other print materials will be made available in **alternate formats** (computer disk, cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products.

The proceeding will be held at the Hall of Justice, 850 Bryant Street, 5th floor Police Commission Hearing Room. The closest accessible BART station is 5th and Mission Streets. Accessible MUNI lines serving this location are 42 and 9X San Bruno Express.

For information about MUNI service call 923 6142

Accessible parking is available in front of the Hall of Justice, 850 Bryant Street.

Accessible seating for persons with disabilities and wheelchairs will be available.

For information about the meeting call 553 1667(v) or 553 9194 (tty)

JUNE 23, 2004 **CLOSED SESSION**

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton B. Goodlett Place, San Francisco, at 5:15 p.m. in Closed Session.

PRESENT: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks
ABSENT: Veronese

CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 AND SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.10(d)

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: AS DEFENDANT

Significant exposure to litigation against the City with respect to amendment of Department General Order 8.11 in light of 5/28/04 letter from the Police Officers' Association's attorney regarding meet and confer obligations

JUNE 23, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in Room 400, City Hall, #1 Dr. Carlton B. Goodlett Place, San Francisco, at 6:20 pm. in a Regular Meeting.

PRESENT: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

VOTE TO ELECT WHETHER TO DISCLOSE ANY OR ALL DISCUSSION HELD IN CLOSED SESSION (SAN FRANCISCO ADMINISTRATIVE CODE SECTION 67.12(a))

Motion by Commissioner Orr-Smith not to disclose discussion held in Closed Session. Second by Commissioner Keane. Approved 7-0

CHIEF'S REPORT

a. Review of recent activities
b. Report on the Department's Crisis Intervention Training
c. Review on operations of the Department's Permit Bureau

Chief Fong introduced the speakers to report on the three items listed under the Chief's Report. Deputy Chief Parra will report regarding several questions asked by the Commission regarding the Sig-Sauer firearms and what would result from the Beretta firearms currently carried by the Department. Sergeant Mike Sullivan and Helynna Brooke, Mental Health Board, regarding the Crisis Intervention that's provided by the Department. The third report will be by Captain Tom O'Neill, Support Services, regarding the Permit process.

Deputy Chief Parra responded to some of the inquiries made regarding what exactly happened to the Beretta firearm. A credit will be received from the Sig-Sauer Company. The Department will dismantle the Berreta weapons and those parts will be sent to Sig-Sauer for a monetary credit. The frames of the Berettas will be destroyed by the Department and the Department will take the registration numbers from weapons destroyed and new ones that are issued and they will all be registered with the Department of Justice. The old firearms will not go back into circulation.

Commissioner Renne asked how much credit does the Department get. Deputy Chief Parra stated it is a significant credit at approximately $350,000

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and there are 2600 weapons.

Sergeant Mike Sullivan, Americans with Disability Act Coordinator for the San Francisco Police Department, to report on the Crisis Intervention Training. Sergeant Sullivan asked Helynna Brooke to join him to discuss the Police Crisis Intervention Training. Sgt. Sullivan stated that the 10th class will be graduating tomorrow afternoon.

Sgt. Sullivan stated that this is a 40-hour course approved by POST. On the first day is Psych 101 to give the officers a foundation in the different types of mental disorders, mood disorders. Later on in the day, Jensen Pharmaceuticals provides a virtual reality machine that simulates schizophrenia. Goggles and headphones gives the auditory and visual hallucinations to give the officers an idea of what it's like to be schizophrenic. On the second day, the officers go out and visit three types of facilities to see what happened in the process and so that they are clear on having the first day getting the foundation and on the second day actually going out into the community and seeing people who are mentally ill. Midmorning, the officers come back and members of the community talks to the officers and engage them in a conversation. What the course is getting across to the officers is they are seeing people in crisis. That's when police arrives. The officers are shown that that person you see in crisis is not the person that this is actually the end after they decompensated. The third day they talk about developmental disabilities, child crisis, juveniles, the differences in how depression manifest in a juvenile as opposed to an adult. The fourth day they talk about active listening to get officers to key in on what people are saying. Practice good officer safety but actually listen to what people are saying because they are trying to say something and listen through the screams, the yells, or whatever is going on to key in on what is actually being said and try some of the techniques that are taught.

(Commissioner Veronese arrived at 6:30 p.m.)

Sgt. Sullivan stated that the course is designed to get a face on it, get people to listen, slow down, ask a few more questions and see what's going on.

Sgt. Sullivan introduced Helynna Brooke to talk about the involvement of the Mental Health Board.

Commissioner Orr-Smith asked how many people in the class. Sergeant Sullivan stated there are 30 people per class. The clinics and drop-in like to keep it to 10 or less so it's less disruptive and less confusing. As of tomorrow, 273 officers would have been trained. The goal is to train all of patrol division officers. Additional funding, through the Board of Supervisors, are use specifically for the class.

Ms. Brooks stated that this is the most interesting projects that she had work in her entire life, this project of working with the Police Department on this training. There is a serious problem with a lot of mentally ill people on the streets. It is imperative that additional information and tools be provided to the officers that deal with mentally ill people. She got involved in the end of 1999 and they first looked over the training the Department had already. They also looked at what was being done in San Jose at that time. The Department also sent an officer to San Jose to attend their training. Funding was available in January, 2001 and the first training was in May of 2001. The question was is it useful for officers and response from the officers are yes, they are still using their training out on the streets. She stated that this has given her a profound respect for the Police Department. She stated that she's impress with the officers of the department and the questions asked by the officers regarding people with mental health illness. The other benefit is the working together of the Police Department and the Mental Health Department. A program was

developed called reverse training where mental health staff are sent to the Academy for training to see what the officers do. She stated it has been really educational for the department. Another benefit is that specific changes have been made because of this program. She stated the largest outreach group out there is the San Francisco Police Officers.

Commissioner Chan stated that he submitted a draft resolution that would provide a framework, having heard what the Commission have just heard, could provide the department with critique as how to training programs are lacking or perhaps more needs to be done in making them more available to members of the force. He asked at what time would it be appropriate to raise the matter for the Commission to be brought into closure and hopes that the Board of Supervisors will continue to support this program.

Captain O'Neill described the Permit Section of the Support Services Division. The section is divided into two sections: Permit & Taxi. The Permit Unit processes applications, renewals of different types of permits. The Entertainment Commission was established in July, 2003, and this transferred 20 entertainment-related permits from the Police Department to the Entertainment Commission. The Permit Unit continues to provide the administrative support for these permits. The Unit process all applications, takes in the fees, distributes recommendations, informs the appropriate city agencies, and then forwards all the applications and completed recommendations to the Entertainment Commission. Additionally, the district station officers do their follow-up in permit inspections. Captain O'Neill stated that the Massage Ordinance passed and will be transferred from the SFPD to the Health Department. He stated he does not anticipate a transition period, however, the Police Department will do the background checks of the applicants as per the ordinance. In January, 2004, the Fortune Tellers Ordinance went into effect where for the first time, fortune tellers would be permitted. Thus far, 18 fortune tellers have received permits. The Permit Section also had to re-institute the permitting of tow car firms and operators. The most complicated part involves the inspection of the vehicles and the firms. Thus far the Permit Unit has processed 3,136 applications of various types of permits. 828 of these were taxi-related applications and 605 were entertainment-related. The Taxi Unit facilitates administrative functions for the Taxi Commission which passed in 1998. This unit is 100 percent funded through a work order. Currently there are approximately 7,000 drivers permitted, 1306 taxicab medallions, 75 ramped taxicab medallions, 30 separate color schemes, and 10 dispatch companies. When the Taxi Commission was established, it did allow for the Board of Supervisors to eliminate the Taxi Commission and fold it into the MTA (Municipal Transportation Authority) and has to go before the Board for approval which will result in additional transitional period.

Commissioner Orr-Smith asked, with respect to permits issued for certain kinds of businesses, what is the complaint status of those kinds of business? Captain O'Neill stated there is a certain amount of illegal disposition of stolen properties through this type of facilities but it doesn't fall under Permit Section. It does fall under the Fencing Unit and there is an active investigation going on. Commissioner Orr-Smith how does that impact their ability to continue with their permits? Captain O'Neill stated it would require a conviction to uphold a revocation of the permit but that is not initiated until the case has been submitted to the District Attorney's office for conviction.

Commissioner Orr-Smith what would you look at in revoking permits? Captain O'Neill stated that revoking any permits is difficult because they are appealable through the Board of Permit Appeals. Criminal conduct is generally grounds for revoking permits.

Commissioner Orr-Smith asked what would the community have to do

in order to take action against a vendor and revoke his permit? Captain O'Neill stated that a hearing is held where the applicant is brought in along with witnesses but there has to be real legitimate reasons to revoke the permit. If there is criminal activity, the officers will work with the inspector's bureau to establish a criminal case.

Commissioner Sparks asked how does one determine the legitimacy of a fortune teller? Captain O'Neill stated that they have to be engaged in legitimate business as defined by the code as opposed to exploiting vulnerable people and robbing them of their life savings. One of the big problems with the fortune tellers is they have aliases, they move around and this is a means of identifying them, getting fingerprints. When the notices was enacted and notices were sent out as to permit requirements, there was an exodus from the city of a significant number of them.

Commissioner Veronese asked why massage permitting handed over to the Department of Health? Captain O'Neill stated that members of the community approached the Board and stated that massage was more of a health department issue and involved inspection control of sexually transmitted diseases and the Department supported this reasoning and supported the legislation.

Commissioner Veronese asked if the Vice department is working with the health department? Captain O'Neill stated that yes they are working with the health department.

Commissioner Chan asked about investigations from the Vice Unit on mechanical amusement devices and its role in policing use of such permits? Captain O'Neill stated that Vice is not his division but certainly if they have reason to believe there is a criminal activity the Vice Unit will investigate.

Commissioner Chan asked how the massage permit is handed over to the Health Department. Captain O'Neill stated that the Police Department has proposed and pushed to maintain the vice controls that the Department currently has in stopping criminal activity.

Commissioner Veronese asked about the Entertainment Commission regarding concerns about festivities involving people in these festivities, is there a process for these festivities to mandate them to have some sort of permit through the Police Department not through the Entertainment Commission because for police activities so that there is some sort of accountability on the part of the organizers. Captain O'Neill stated that the Police Department are involved in the permitting process of these festivities. The Department has input as far as providing the necessary support.

PUBLIC COMMENT

Michael Petralis talked about item 5b regarding crisis intervention training as far as people using speed. He also spoke regarding the budget and asked that if there is a document, print the web address where that document can be found on the web.

Marylon Boyd, Justice to Cammerin Boyd Campaign, stated that her son was mobility impaired and that her son had tried to communicate with the police regarding his disability and would like that the police look into the issues of mobility impaired persons. She asked about the police's heated moment and how do they address themselves and she would like that the crisis intervention be addressed.

Malaika Parker, Bay Area Police Watch, thanked the Commission for taking this issue up. She stated that the primary issue by the community is that information are not shared and the training should change as issues come up.

OCC DIRECTOR'S REPORT

a. **Update regarding Police Recommendations regarding officer-involved shootings and in-custody deaths**
b. **Discussion and possible action to set a date for presentation of the OCC's Report on implementation of its policy recommendations to the Police Department from 1999 through 2004**
c. **Review of Recent Activities**

Director Allen addressed the Commission regarding the date for presentation of the OCC's report on implementation of its policy recommendations to the Police Department from 1999 through 2004. He stated that he will be meeting with Chief Fong to compare notes as far as the policies. There are 28 policy recommendations. He asked the Commission to pick a date for presentation of this report.

Commissioner Renne requested that Chief Fong and Director Allen agree on a date and she will schedule it to be placed on the Commission calendar.

Commissioner Sparks asked that copies be forwarded to the Commission before the report is presented.

Director Allen will provide a full copy of all the policy recommendations.

Commissioner Keane asked if it is feasible for the Commission to look at the 28 policy recommendations in one meeting. Director Allen stated that hopefully by the time they are presented to the Commission, it will be a finish product.

Commissioner Renne stated that within the next two weeks, a packet of policy recommendations be submitted and then start to calendar those.

Director Allen stated that as far as officer-involved shooting incident policy, he will forward information to the Commission as soon as information is received.

PUBLIC COMMENT

None

DISCUSSION AND POSSIBLE ACTION TO APPROVE REVISED GENERAL ORDER 11.09, "EMPLOYEE ASSISTANCE PROGRAM/STRESS UNIT"

Sergeant Mary Dunnigan described the Stress Unit and stated that the change to the General Order was made as not to be redundant.

Commissioner Chan asked what is the relationship of the Stress Unit to the Early Warning procedures. Sgt. Dunnigan stated that they work closely with the sergeants out on the field and work closely with family members of officers involved. They are a support system for the members and their family members. They also provide counseling and refer out for professional counseling. Sgt. Dunnigan stated she does do a Law Enforcement Orientation and she talks to recruits about how they will be transitioning from civilian to cop. The orientation addresses the police culture and the difference they will experience as far as dealing with victims on a day to day basis. She also offers a class, which is volunteer for the recruits and their family members called Family Partner Training. The recruits come in one night to talk about police work and transition from civilian to a cop. This gives the family members some idea of what to expect and gives the members a chance to ask questions

so that they can be familiarized with the culture.

Commissioner Keane asked what intervention is used for an officer with alcohol or drug abuse problem. Sgt. Dunnigan stated that Stress Unit deals with alcohol and stress issues and they try to get support around peers and co-workers to get the officer to go to the stress unit on their own. If an officer is dealing with disciplinary issues regarding alcohol and stress, gambling, the unit deals with the officer. There is a peer support program to get officers to talk to other officers with alcohol and substance abuse problems.

Commissioner Veronese asked about critical incidents, does the department have a support structure in response to a victim, non-police officer involved in a critical incident. Sgt. Dunnigan stated that time is consumed by members and their families but the unit does work with victims who asked for help and can be forwarded some resources.

Commander Puccinelli stated that a CIRT team has been established for civilians. The department will call the Department of Public Health and will let the Department of Public Health know the information. There are officers assigned in different stations to call the Department of Public Health in case an incident occur.

Commissioner Veronese asked what brought about the change in the department general order and was there an event that brought this about, this change? Sgt. Dunnigan stated the change is only to avoid redundancy.

Motion by Commissioner Orr-Smith, second by Commissioner Marshall. Approved 7-0.

RESOLUTION NO. 53-04

APPROVAL OF REVISED GENERAL ORDER 11.09, "EMPLOYEE ASSISTANCE PROGRAM/STRESS UNIT"

RESOLVED, that the Police Commission hereby adopts revised General Order 11.09, "Employee Assistance Program/Stress Unit."

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

DISCUSSION AND POSSIBLE ACTION TO REMOVE CHARGES AGAINST OFFICER LAURENCE BARKER FROM THE COMMISSION'S CALENDAR IN LIGHT OF OFFICER BARKER'S RESIGNATION

Captain O'Leary asked if there are any questions.

PUBLIC COMMENT

None

Motion by Commissioner Marshall, second by Commissioner Orr-Smith. Approved 7-0.

RESOLUTION NO. 54-04

RESIGNATION OF OFFICER LAURENCE B. BARKER, SUPPORT SERVICES (FILE NO. C02-128 JWA)

WHEREAS, on July 8, 2002, Fred H. Lau, former Chief of Police, made and served charges against Officer Laurence B. Barker, Support Services,

as follows:

SPECIFICATION NO. 1

Leaving his assigned post without permission (violation of Rule 44 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 2

Conduct which undermines the good order and discipline of the department and which brings discredit on the department (violation of Rule 9 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 3

Engaging in personal business while on duty (violation of Rule 40 of Department General Order 2.01 of the San Francisco Police Department).

SPECIFICATION NO. 4

Attempting to mislead treating physicians (violation of Rule I-M-2-a of Department General Order 11.01 of the San Francisco Police Department).

WHEREAS, the Police Department was in receipt of the resignation of Officer Laurence B. Barker from the San Francisco Police Department, said resignation effective close of business June 11, 2004, which resignation was accepted with the condition that the services of Officer Laurence B. Barker have been unsatisfactory and that he does not resign in good standing; therefore be it

RESOLVED, that the charges of violating the Rules and Procedures of the San Francisco Police Department filed against Officer Laurence B. Barker, be, and the same are hereby continued off calendar.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

DISCUSSION AND POSSIBLE ACTION TO DISMISS DISCIPLINARY CHARGES AGAINST OFFICER DAVID M. BURNS (FILE NO. OCC 0212-98), OFFICER NIKOLAUS BORTHNE (FILE NO. OCC 0212-99), OFFICER GABRIEL GALLAREAD 9FILE NO. OCC 0403-99), AS REQUIRED BY THE SETTLEMENT OF SAN FRANCISCO POLICE OFFICERS ASSOCIATION v. CCSF, SAN FRANCISCO SUPERIOR COURT NO. 324625

Director Allen stated that there is a settlement agreement. Ms. Morley stated that charges are on for dismissal and settlement have been approved by the Chief and the former commission and charges have not been taken off calendar and that is why it is before the Commission tonight.

Commissioner Veronese asked about the settlement and asked for clarification as to how this would affect the Commission in the future.

Motion by Commissioner Veronese to continue. Second by Commissioner Keane. Put over to July 7th.

Commissioner Sparks asked if there are other cases that would fall to this same type of action by the Commission. Director Allen stated that there are three cases pending in Superior Court for decision.

Commissioner Veronese asked if there is a vote on behalf of the past Police Commission to approve this contract. Ms. Morley stated that the past Police Commission did meet in closed session on this contract. The settlement was signed by the Chief because it was a matter that was settled for less than $25,000 and there was no payment with this settlement. In terms of binding this Commission in the future, the only thing that this binds the City as a whole to is that in future cases where there are no notice to the officers of proposed disciplinary action within the one-year period, and in addition there is no exception that is applicable that the city won't argue that notice from the OCC that there was preliminary determination of a case without anything more would not be relied upon. What this binds the Commission to is that it cannot go forward with this particular case.

Ms. Morley also stated that the Chief has authority to settle litigation and the OCC has its own powers to file charges.

Commissioner Chan stated he will speak against the motion and sees no reason why this matter has to be held up.

Commissioner Orr-Smith stated that she concurs with Commissioner Chan and see no further discussion on this.

Commissioner Renne asked that since it was approved by the previous Commission is this is a final agreement and was it submitted to the court. Ms. Morley stated that this is a final agreement.

PUBLIC COMMENT

Malaika Parker, Bay Area Police Watch, addressed the Commission regarding dismissal of charges and asked that time be taken to discuss this issue so that 3304 dismissals does not happen again.

Motion by Commissioner Veronese to put this item over to July 7th. Second by Commissioner Keane. Approved 6-1.

AYES:	Commissioners Renne, Orr-Smith, Keane, Marshall, Sparks, Veronese
NAYS:	Commissioner Chan

DISCUSSION AND POSSIBLE ACTION TO CREATE A BUDGET COMMITTEE AND A TECHNOLOGY COMMITTEE OF THE SAN FRANCISCO POLICE COMMISSION

Commissioner Renne suggested that a budget committee be created and that a technology committee be created in trying to help with technology. She stated that Commissioner Sparks has agreed to chair the budget committee. There has to be at least two or more to be a committee.

Commissioner Orr-Smith would like to know how many committees can be established in the future.

Commissioner Renne stated that at this point only these two have been presented. Commissioner Renne stated that this does not have to be done and can be put in the back burner for the moment. But for the moment suggests Commissioner Sparks to be in the budget committee.

Commissioner Sparks stated that the budget is one of the biggest in the

city and would require more than two hours to present the budget and to understand how it works. She also stated that this Commission can be helpful with working with the Board of Supervisors.

Commissioner Renne requested that Commissioner Sparks be the budget liaison for the Department and the OCC.

Commissioner Renne stated that the committees will be fact gatherers and recommend ideas to the Commission and suggests that Commissioner Sparks be budget liaison to the Department and the OCC.

Motion by Commissioner Keane to have Commissioner Sparks as budget liaison and have Commissioner Veronese to be technology liaison. Second by Commissioner Orr-Smith. Approved 7-0.

RESOLUTION NO. 55-04

APPOINTMENT OF COMMISSIONER THERESA SPARKS AS BUDGET LIAISON AND COMMISSIONER JOE VERONESE AS TECHNOLOGY LIAISON OF THE SAN FRANCISCO POLICE COMMISSION

RESOLVED, that the Police Commission appointed Commissioner Theresa Sparks as Budget Liaison and Commissioner Joe Veronese as Technology Liaison of the San Francisco Police Department.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

DISCUSSION AND POSSIBLE ACTION TO APPOINT A COMMISSIONER TO MONITOR COMPLIANCE WITH DEPARTMENT GENERAL ORDER 8.10, "GUIDELINES FOR FIRST AMENDMENT ACTIVITIES" PURSUANT TO SECTION (VI)(A) AND (B) OF THE GENERAL ORDER

Commissioner Renne stated that she has asked Commissioner Chan to do this duty.

PUBLIC COMMENT

None

Motion by Commissioner Veronese, second by Commissioner Keane. Passed 7-0.

RESOLUTION NO. 56-04

APPOINTMENT OF COMMISSIONER DOUGLAS CHAN TO MONITOR COMPLIANCE WITH DEPARTMENT GENERAL ORDER 8.10, "GUIDELINES FOR FIRST AMENDMENT ACTIVITIES" PURSUANT TO SECTION (VI)(A) AND (B) OF THE GENERAL ORDER

RESOLVED, that the Police Commission appointed Commissioner Douglas Chan to monitor compliance with Department General Order 8.10, "Guidelines for First Amendment Activities" pursuant to Section (VI)(A) and (B) of the general order.

AYES: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

COMMISSION ANNOUNCEMENTS

a. **Notice of assignment and setting of date for hearing on disciplinary charges filed against Officer Ricky E. Shaddox**

b. **Scheduling of items identified for consideration at future Commission meetings.**

PUBLIC COMMENT

None

Commissioner Renne stated that on Saturday, some of the items requested by the Commission will be addressed during the training.

Letter to School district asked by Commissioner Orr-Smith***

Commissioner Renne stated that she will not be the general counsel for the school district by the end of this month.

Commissioner Veronese commended the Chief and stated he attended the first amendment event and stated that there was a lot of comments received regarding a job well done during the BioTech conference.

PUBLIC COMMENT

Shawn Richards wanted to introduce himself and commended Chief Fong for doing an excellent and fine job and commended Chief Bruce in his emails and congratulated the Commission.

Thereafter, the meeting was adjourned at 8:55 p.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

LOUISE RENNE
PRESIDENT

GAYLE ORR-SMITH
Vice President

DOUGLAS CHAN
Commissioner

PETER KEANE
Commissioner

THERESA SPARKS
Commissioner

DR. JOE MARSHALL
Commissioner

JOE VERONESE
Commissioner

LT. EDWARD GBETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

SPECIAL MEETING
SATURDAY, JUNE 26, 2004
8:00 a.m. - 5:00 p.m.

San Francisco Police Academy
350 Amber Drive
San Francisco, California

Roll Call

Police Commission training on the Department's Operations & Procedures:

Public Comment on all matters pertaining to the Training

MORNING SESSION

Topics to be covered are the following:

1. Chief's Welcome; Civil Service Rules
2. Organizational Chart/Bureaus & Divisions
3. Overview of Training Division/POST
4. Written Communications/Manuals
5. Department General Orders:
   a. General Order 2.01, "General Rules of Conduct"
   b. General Order 3.19, "Complaint Early Warning System"
   c. General Order 5.01, "Use of Force"
   d. General Order 8.10, "Guidelines for First Amendment Activities"
   e. General Order11.07, "Discrimination and Harassment"
6. Racially Biased Policing/Profiling
7. Vice/Narcotics Enforcement
8. Community Policing

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AFTERNOON SESSION

10. Use of Force Overview
11. Firearms Policy
12. Officer-involved Shootings
13. Emergency Vehicle Operations (EVOC)
14. Driving Policy/DABOR

"HANDS-ON" TRAINING

15. Force Options Training
16. Driving Simulator
17. Defensive Tactics

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Government's duty is to serve the public, reaching its decisions in full view of the public.

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The Police Commission

CITY AND COUNTY OF SAN FRANCISCO

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Commissioner

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THERESA SPARKS
Commissioner

DR. JOE MARSHALL
Commissioner

JOE VERONESE
Commissioner

LT. EDWARD GEETER
Secretary

SAN FRANCISCO POLICE COMMISSION AGENDA

REGULAR MEETING
WEDNESDAY, JUNE 30, 2004
6:00 p.m.

SOUTHEAST COMMUNITY FACILITY
Alex L. Pitcher, Jr. Community Room
1800 Oakdale Avenue
San Francisco, California

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Pledge of Allegiance; Roll Call

1. Chief's Report (DISCUSSION ONLY)
   a. Review of Recent Activities

2. OCC Director's Report (DISCUSSION ONLY)
   a. Report on the function of the Office of Citizen Complaints

3. Commission Announcements (DISCUSSION ONLY)
   a. Scheduling of items identified for consideration at future Commission meetings

4. Captain Richard Bruce, Commanding Officer of Bayview Station, to address the Commission on Police Activities in the Bayview District (DISCUSSION ONLY)

5. Public Comment
   (Members of the public may address the Commission on items that are within the subject matter jurisdiction of the Police Commission that do not appear on the agenda.)

The Commission will hear public comment on all agenda items before or during discussion of the item. Public comment is limited to three minutes for individuals and five minutes for representatives of organizations.

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CAPTAIN RICK J. BRUCE
AND THE ENTIRE
BAYVIEW POLICE STATION

WELCOMES

THE SAN FRANCISCO
POLICE COMMISSION
TO THE BAYVIEW DISTRICT

PLEASE COME IN AND JOIN US FOR THE NEXT POLICE COMMISSION MEETING TO BE HELD IN OUR NEIGHBORHOOD ON:

WEDNESDAY, JUNE 30, 2004
6:00 P. M.

SOUTHEAST COMMUNITY
CENTER
1800 OAKDALE AVENUE

SAN FRANCISCO POLICE
PUBLIC MEETING/HEARING ACCESSIBILITY INFORMATION

Communication accessibility services; including sign language Interpreters or computer aided real time captioning will be made available upon advance request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406(tty), at least 72 hours prior to a proceeding. Late requests will be honored if possible.

A **sound enhancement system** will be available on advanced request. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty) at least 72 hours prior to a proceeding. Late requests will be honored if possible.

Meeting agendas and other print materials will be made available in **alternate formats** (computer disk, cassette tape, large print or Braille) upon advance request at least 72 hours at least 72 hours prior to a proceeding. Please call Sergeant Michael Sullivan, at 553 1343 (v) or 558 2406 (tty). Late requests will be honored if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call 553 1343 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products.

The proceeding will be held at: Southeast Community Facility, Alex L. Pitcher, Jr. Community Room, 1800 Oakdale Avenue, San Francisco

Accessible MUNI lines serving this location is: 44 O>Shaughnessy, 24 Divisadero, 15 3rd Street

For information about MUNI service call 923 6142

The closest BART Station is: none

Accessible parking _____

For information about the meeting call 553-1667 **(v) or** 553-9194 **(tty)**

JUNE 30, 2004 **REGULAR MEETING**

The Police Commission of the City and County of San Francisco met in Bayview District at the Southeast Community Center, 1800 Oakdale Avenue, San Francisco, at 6:05 p.m., in a Regular Meeting.

PRESENT: Commissioners Renne, Orr-Smith, Chan, Keane, Marshall, Sparks, Veronese

Commissioner Renne introduced herself and gave a brief bibliography of her background. Thereafter, Commissioners Chan, Keane, Orr-Smith, Marshall, Sparks, and Veronese all introduced themselves and gave a brief bibliography of their background.

CHIEF'S REPORT

a. Review of Recent Activities

Chief Fong addressed the Commission and brief Commission regarding recent activities in the Department. Chief Fong stated that the Department has been busy this past week. Friday the budget was presented to the Board of Supervisors and the Department will be returning this coming Friday. Over the weekend, the Pride celebrations were held and occurred in a very safe fashion. Chief Fong also stated that over the weekend, there were homicides that the Department is now investigating in order to close these cases as well as to find those responsible for the violence. The Department is also preparing for the July 4th celebration. Chief Fong also talked about the incident in the Ingleside District and stated that the Department is doing two investigations, one by MCD and the other by Homicide. Chief Fong introduced the members of the command staff that are present: Deputy Chief Suhr, FOB, Deputy Chief Tabak, Investigations Bureau. Chief Fong then deferred the rest of her report to Captain Rick Bruce, Commanding Officer of the Bayview Station.

Commissioner Keane stated that he had received a phone call from Chief Fong after the officer-involved shooting that occurred Tuesday. He stated he appreciated the response and hopes that the Department will be more transparent in these types of issue and he believes the Department is heading in that direction.

OCC DIRECTOR'S REPORT

a. Report on the function of the Office of Citizen Complaints

Director Allen addressed the Commission and the community and described the functions of the OCC and how complaints are made and investigated. He also handed out information regarding the OCC, including address and phone numbers.

Commissioner Marshall stated that his Commission is working very hard to strengthen the OCC as an entity and to respond to the community about any concerns that it may have about officers and urged the public to take advantage of the OCC and what it can do for the community.

COMMISSIONER ANNOUNCEMENTS

a. Scheduling of items identified for consideration at future Commission meetings

None

CAPTAIN RICHARD BRUCE, COMMANDING OFFICER OF BAYVIEW STATION, TO ADDRESS THE COMMISSION ON POLICE ACTIVITIES IN THE BAYVIEW DISTRICT

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Commissioner Renne thanked Captain Bruce for putting this meeting together.

Captain Bruce, Commanding Officer of Bayview Station, addressed the Commission and discussed the police activities in the Bayview District. Captain Bruce stated that the Bayview Station has the highest staffing levels in the department and thanked the command staff for their support.

Captain Bruce also stated that flyers are utilized to get information out to the community regarding homicides. The flyers include a list of phone numbers of the homicide inspectors, the 24-hour tip line, the Bayview Station line, and some of the facts of the case are included for reference.

Captain Bruce explained the Cease Fire Operation. This operation is based on the premise that there is a small number of people in any community who commit most of the violence and that those people should be targeted. This operation has been done for approximately three years.

Captain Bruce also talked about what is called the 11532 Program. Captain Bruce explained that one of the most frustrating situations that exist in the Bayview is the constant loitering near some of the notorious street corners in the Bayview. What frustrates people is that police seemed to be unable to deal with this situation. Captain Bruce explained that there is a law on the books, in the Health and Safety Code, which allows police officers to take action against people who are loitering when it can be demonstrated that they are loitering for purposes of using, selling, transporting narcotics. So a program was put together that will be taking off next week. A data base is started and these individuals will be tracked. Captain Bruce stated that the department will be going after these individuals who hang out in street corners for purposes of buying, using, selling drugs.

Captain Bruce also talked about the Drug-free Zones. Captain Bruce explained that there is a law in the books that provides for a 3 to 5 year enhancement for anyone caught transporting, selling, or possessing for sale narcotics within 1,000 feet of either a school or a youth facility. In order to implement this program, Captain Bruce and staff have worked with the Mayor's office, funding was found for this and the Mayor's office have supplied with about $8,000 and the department have purchased about 70 drug-free zone signs and have targeted 70 locations in the district where they felt this enforcement operation was most appropriate and the signs are going to be going up in the next few weeks in hopes that these individuals would get the message and stop hanging out near the schools.

In terms of traffic, Captain Bruce stated that the Bayview is a very dangerous district to drive in. There are constant complaints of reckless driving, speeding, side show activities, donuts, et cetera. A more recent development is with the pocket bikes. These are extremely small motorcycles that can be purchased for as little as $199. These bikes are illegal and cannot be used on any public highway, public sidewalk or any other place. They are not outfitted to be licensed. So an operation was started to try to target these things so that some young people's lives can be saved. Captain Bruce stated that the first day he sent out emails regarding these pocket bikes, that afternoon, there were two children run over on these bikes. The kids can't see the cars and the cars can't see the kids and that's the problem. They are extremely dangerous and they are trying to get them off the streets.

Captain Bruce stated that there is a tremendous amount of community outreach in the Bayview. The most common way is through community meetings. In terms of community meetings, there are community meetings in the Bayview a minimum of four nights a week all across the district and the

officers from the Bayview attempt to be present at all the meetings. In the past two nights, Captain Bruce stated he's been to six different community meetings. Another outreach is the daily email that goes out. It goes out five days a week. There are an excess of 500 people who subscribe to the Bayview's email alert. The emails contain the general nature for the community and all of the information regarding crime starting with all the felony arrests, robbery series, sexual assaults, et cetera. Whatever is known it's put out on the email so that the community is aware of it. Captain Bruce stated that the community have actually assisted in a couple of cases but what have been told to the Captain is the members of the community who receives the email updates feel that as if they've got a connection with Bayview Station. They feel also that they have instant access to the officers at Bayview Station. Captain Bruce stated that he receives approximately 50 emails a day with people responding back to his email update.

Captain Bruce also talked about the Quality of Life Phones. Captain Bruce explained that one of the common laments from the people in San Francisco is they become very frustrated trying to contact the police. People feel frustrated with non-emergency calls. They feel frustrated because they believe they get the runaround. So what Bayview did is to have what they called quality of life phones. One deals with the issues of graffiti and homeless situations, the second deals with narcotics and prostitution, and the third one deals with abandoned autos. What is done is at the end of each email update, the names of the officers who carry these phones with the phone numbers. Captain Bruce stated that this system has been very effective.

In addition to the quality of life phones, the Bayview has six phone numbers and phones assigned to public housing officers. Approximately 2 months ago, 12 officers were assigned directly into public housing. He stated that so much of the violence is occurring right in public housing and they felt that it was absolutely necessary to place police officers there and start to do some community policing, start to do some outreach in order to stop violence.

Captain Bruce talked about substations being opened in public housing. One substation is at 130 Westpoint Road. This substation is currently open and was provided by the Public Housing. A second station will be placed on the 900 block of Connecticut for Potrero Hill. The third substation will be placed at 195 Kiska Road.

Captain Bruce talked about youth outreach. Captain Bruce explained that the department understands that there are a variety of youth activity programs that exist already in San Francisco but we're trying to accomplish two things: one is to provide kids with youth activities. The second this is to break down the historical barriers that exists between the Bayview community and the Police Department.

Captain Bruce talked about the Milt Meyer Gymnasium located at 195 Kiska Road. The bad news is that when you go into this gymnasium, you will not find children in this gymnasium. It's extremely rare to see people using this gym. Captain Bruce stated that when he first came out to Bayview, there was a murder that occurred in front of the gym and it drove a lot of the kids away. It made the community reticent to go up there and use the gym. So what the Bayview is doing is they are working with Park and Rec to get into the building and get into an office in the building to make it a police substation.

A baseball program was also established to bring safety to the neighborhood. Uniforms were provided to all kids that showed up. Kids are also taken out to Harding Park to teach them how to play golf. The hope is to expose kids to some of the sports that they are not normally exposed to. Midnight Basketball is also a program that was started about a decade ago. Captain Bruce explained that Midnight Basketball is anything but basketball.

The age is between 18 to 25. The goal is to not only get the young men off the streets but to break down the animosities that exist. He explained that you come in and get drafted to play but you don't get to play with your buddies in the same team. You are forced to play with different group of guys that are from different areas in the Bayview District. There is also a nightly lecture which is done before they are able to play basketball. The lecture is to talk to them about life skills, how to take a job interview, how to get GED, how to clear traffic warrants, and just to try to pull their lives together.

Commissioner Orr-Smith, a resident of the Bayview, thanked Captain Bruce and the officers of Bayview Station for the work being done by the officers.

Commissioner Chan asked about the budget and asked Captain Bruce what his officers are telling him about their needs. Captain Bruce stated the officers ask for training and equipment. Training in how to approach suspects who are armed with assault weapons.

Commissioner Veronese stated that he had visited Bayview Station and addressed the line ups.

Commissioner Sparks asked about Operation Impact and asked if the program continues, what changes would be made. Captain Bruce stated that he believes that the operation was successful and he thinks that the CHP should return.

PUBLIC COMMENT:

Supervisor Sophie Maxwell, a Bayview resident, addressed the Commission and the community. She thanked Captain Bruce for the community work being done and thanked the Commission for hold the meeting in her district.

Michael Petralis stated that voting registration is very important and people should register to vote. He also stated that Commission meetings should be broadcast on T.V., channel 26.

Unidentified commended Captain Bruce for the police activities in the community. He stated that focus should be more on the good things that occur in the district and not just the bad things.

Joe stated that the people are afraid to come forward to report crimes because the news media will repeat their names or pictures in the news.

Karen Pierce addressed the Commission and discussed her concerns.

Meesha Irizary, Idriss Stelley Foundation, stated that she was impressed with Captain Bruce's presentation. She also stated that the root of the violence must be removed from the community before it can be stopped.

Anna stated she was disappointed that the Commission did not have a Hispanic member and she hopes that the mayor will correct that oversight. She also mentioned the Cease Fire Program and that it should be looked at by the Commission.

Malaika Parker, Bay Area Police Watch, addressed the Commission and spoke on the issue of the officer-involved shooting of Cammerin Boyd and asked when will information be released.

Ms. Brown, Bayview resident, thanked the Commission for meeting in the Bayview and that she feels that she has access to someone about the issues in the district.

Mr. Biase, Youth Commission, talked about issues of the youth with the city.

Marylon Boyd, mother of Cammerin Boyd, stated that she has not seen any changes in how police respond to the family of victims of officer-involved shootings. She stated that when a mother of a victim asked about the shooting of her son, she was arrested.

Tupufa Valentine discussed concerns.

Sam Ripley addressed the Commission and thanked Captain Bruce for a job well done and stated that more effort should be spent toward the Pacific Islanders community and stated that Samoans represent 35 to 40 percent of the community.

Unidentified commended Captain Bruce for the good job he is doing and asked what programs can be done for the older members of the community.

Sharon thanked the Commission for meeting in the community.

Ms. Brown welcomed the Commission and Chief Fong to the Bayview and stated that although we are meeting at the Bayview, the problem is citywide.

Unidentified commended Captain Bruce for the work he is doing.

Kamilla Boyd discussed concerns regarding police getting assault rifles and stated that she is against the idea.

Ms. Mays, Bayview resident for over 30 years, spoke against police misconduct.

Unidentified, long time Bayview resident, stated that over the years he has seen more than eight captains come and go but Captain Bruce is the first to participate with the youth and the community.

Julie discussed concerns.

Howard Wo thanked Captain Bruce and stated that he has learned more in Captain Bruce's daily emails about the District than in 40 years of reading the newspaper.

Thereafter, the meeting was adjourned at 9:15 a.m.

Lieutenant Edward Geeter
Secretary
San Francisco Police Commission

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